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BY

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PART I.—INTRODUCTION.

PART II.—CONTRACT: CIVIL CUSTOMS.

PART III.—CONTRACT: LEGAL PRECEDENTS.

SECTION I: MONEY LOANS; LETTING AND HIRING.

SECTION II: SALE.

(In preparation.)

SECTION III: DEPOSIT, PLEDGE.

(In preparation.)

PART IV.—CONTRACT: COMMERCIAL CUSTOMS.

(In preparation.)

PART V.—PROPERTY: CIVIL CUSTOMS.

PART VI.—PROPERTY: LEGAL PRECEDENTS.

(In preparation.)

PART VII.—PERSONS: CIVIL CUSTOMS.

(In preparation.)

PART VIII.—PERSONS: LEGAL PRECEDENTS.

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OF

PRIVATE LAW IN OLD JAPAN.

PART V.

PROPERTY: CIVIL CUSTOMS.

CONTENTS.

PAGE.

I.—Ownership and Title 1

II.—Sundry Rights connected with Land:

1. Boundaries 20
2. Vicinage 25
3. Sundry Servitudes 39
4. Usufruct 43
5. Temple Endowments 44
6. Forests 48
7. Pastures 58
8. Ponds and Swamps 63
9. Drains 63
10. Ways 65
11. Irrigation 70
12. Rivers 77

III.—Succession:

1. Petitions and Reports 79
2. Right of Succession to the Headship 88
3. Distribution of Patrimony 95

Appendix 110

CHAPTER I.

OWNERSHIP AND TITLE.

There is usually, in the case of ricefield, upland, and forest land, a register, called "land-inspection-book"[1] or "official-map-book,"[2] and kept at the village office; in this is entered the total assessed production of the various kinds of land in the village. There is also a "name-list-book"[3] or "production-book,"[4] in which are entered the assessed production, area, common name,[5] and owner's name of each piece of land, the title being thus certified. In towns there is a register for the land (which is tax-free),[6] called "map-book"[7] or "area-book,"[8] in which are entered the number of feet of frontage[9] and depth[10] of each house and the name of its owner, the title being thus certified.[11] Variations of custom more or less great are as follows:

KINAI. In Yamashiro *kuni*, Kuse *kori*, there is a register[2] in which are entered the production, area, common name, and owner's name of each piece of land, the title being thus certified. When the title passes to another person, the name is changed and the date entered, so as to give the

1. *Kenchi-cho.* 2. *Mi* (an honorific prefix, here employed because of the official character of the book)-*zu* (map, chart)-*cho* (book). 3. *Na* (name)-*yose* (collect)-*cho.* 4. *Taka-cho.* 5. *Azana.* 6. *Menzen.* This must mean merely "exempt from the rice-tax," because town property was subject to the town taxes. 7. *Yezu-cho.* 8. *Ken* (a measure of length)-*su-cho.* Throughout the remainder of the chapter the word "register" alone is used in the text, the vernacular term being given in the notes. 9. *Maguchi.* 10. *Okuiki.* 11. *Sadameru.*

history of the plot. In the period Kwanyei (1624-1644) the Tokugawa government made 140 families tax-free, by reason of their eminent skill in tea-growing. The assessed production of this province is divided into three kinds, tea-land, ricefield, and upland, the first yielding the largest tax.

TOKAIDO. In Iga *kuni*, Abe *kori*, in each ward of a town there is an old register,[1] kept at the ward assembly office,[2] and enumerating briefly the houses and lands of the ward. There is a copy of it at the ward-office,[3] the title of each owner being thus certified. When a correction is made at the ward-office, at the time of sale, it is reported to the ward-assembly office, but the original book is never changed. In villages there is a register[4] of all cultivated residence and forest land, in which is entered in detail the production, area, and owner's name, the title being thus certified. By custom the right of ownership is confined to heads of families.

In Ise *kuni*, Ano *kori*, there is in each village a register[4] of all the owners, giving the production, area, and common name of each plot, the title being thus certified. If an owner grants away land (it must be to some one of good pedigree[5]), he reports to the feudal official and procures a seal of attestation. In town-lands the title is determined by indorsement of the ward-officials upon the deed of sale, the details being entered in the "sect-register"[6] of the ward. No other process of record is used to determine title. In Wataraye *kori*, the land belongs for the most part to the Sacred Domain of the temples Naiku and Geku, and since ancient times there has been an Imperial prohibition against new settlements being made

1. *Mizu-cho.* 2. *Machigwaisho.* 3. *Machi-yakuba.* This was the office of the administrative officials. 4. *Nayose-cho.* 5. *Yuisho.* 6. *Shumon-cho.* This contained the names, ages, etc., of the parishioners of each temple, and was the register on which the national registration and census system was based. The more common term was *nimbetsu-cho* (person-difference book).

there.[1] There are priestly officials, who have charge of matters relating to the Divinities, and civil officials, having an assembly-office, where civil matters are managed. The latter officers are taken from noble families and are divided into two classes. The Sacred Domain[2] pays no taxes. As to the land within its limits, the owners are forbidden to transfer their right to any person without the Domain.[3] There is no recording of titles, and although sales must be reported to the officials, the sales are not recorded; so that everything is done by private contract.[4]

In Shima *kuni*, Toshi *kori*, the headman[5] keeps a register[6] in which are entered the production, area, and common name of every plot, as well as the owner's name, the title being thus certified. In a town-ward the headman[5] keeps a register[7] containing the names of each owner, the title being thus certified. The headman is so careful of this book that though all his property be in danger by fire or by flood, he saves this even at the risk of his life.

In Owari *kuni*, Aichi *kori*, the title to houses and land in towns is determined by report to the feudal official and in a register[8] kept by the ward-representative.[9] In villages title is determined by record in a register[6] kept by the headman. No report to the feudal official is made, but his attesting seal must be obtained for transfer of newly-reclaimed lands,[10] since its production has until then not been assessed.

In Idzu *kuni*, Takata *kori*, there is a large river, the Kanogawa. The middle of the river is regarded as the boundary of the lands of the villages on opposite banks. If the channel is altered in consequence of a flood, the ownership of land which remains intact does not alter. So

---

1. *Shugo* (protected)-*fumu* (no entrance). See Part II. Chap. IV, Ise *kuni*. 2. *Shin-ryo*. 3. That is, probably, any person coming in from without and wishing to settle. 4. *Aitai* (face to face). 5. *Shoya*. 6. *Nayose-cho*. 7. *Mizu-cho*. 8. *Iye* (house)-*nami* (row)-*cho*. 9. *Machi-sodai*. 10. *Shinden*.

that it sometimes happens that land belonging to Idzu province is cultivated by people of Suruga province (which is on the opposite side of the Kanogawa). If a piece of land on the west bank is broken off and becomes attached [1] to the east bank, it is called "river-bank land," [2] and remains the property of the village whence it came.

In Sagami *kuni*, Ashigara *kori*, a portion of the east bank of a river is sometimes broken off by a flood and becomes attached to the west bank; but there is a prohibition by the feudal lord against the cultivation of the portion thus attached; and although a kind of cabbage is sometimes grown there for manure, it is against the law. If a portion of land on one side is entirely destroyed,[3] the tax is remitted, on report being made to the feudal official.

In Suruga *kuni*, Abe and Udo *kori*, in towns, to transfer the title to lands or houses, a report bearing the official seal of the ward-chiefs must be made to the feudal official. In villages there is nominally no sale of land; a mortgage is used and the register is changed, without report to the feudal official. It is necessary for the deed to recite that the mortgagor, in consequence of continued misfortune in recent years, finds it difficult to pay his taxes, and without this recital the headman [4] will not permit the transaction. The counter-seal of relatives is also needed. But the title to residence-land cannot under any circumstances be transferred. In Shida and Mashizu *kori*, title to real property is determined by a register [5] kept at the local office, a yearly report of changes of ownership being made to the feudal official. A register of assessed production [6] is also kept. The perpetual sale of cultivated land is not permitted, and transfers are made for 10 years only. This is called "deposit-land." [7] The person paying the price

1. *Yosesu.* 2. *Kawara-chi; kawara* is that portion of the river-bed which is bare in the dry season. For further notes on this point, see Chap. II, "Boundaries." 3. *Kake* (fall away, vanish)-*chi.* 4. *Nanushi.* 5. *Nayose-cho.* 6. *Takatsuke-cho.* 7. *Shiki-chi.*

undertakes the payment of taxes and village expenses, and if at the end of the term the seller does not redeem[1] the land, it becomes forfeit[2] and the title passes. The deed of a "deposit-land" must have the counter-seal of the seller's relatives and company and the official seal of the village officers. In transfers of forest-land (called "term-forest"[3]) the term is 50 years, and at the expiration of the time, when all the trees have been cut down, the land is restored to its owner; this is called "restoring the soil only." A term of this length is necessary, because there is no profit from annual crops in forest-land. In towns the perpetual sale of lands and houses is allowed; the deed must bear the official seal of the ward officers.

In Kadzusa *kuni*, Yūki *kori*, there is a register[4] in every village in which the production, area, owner's name and common name of each plot, are entered, the title being thus certified. A copy of the record as to each owner is given to him, and is called "hand-book."[5]

Tosando. In Omi *kuni*, Shiga *kori*, there is a register[6] in the village office in which are recorded the production, area, common name, and owner's name of each plot of rice-field and upland, the title being thus certified. In the case of residence-land in towns there is a "deeds-of-sale book"[7] at the ward-office, and in it are entered the frontage and depth of each house, as well as the name of its owner, the title being thus certified. The official seal must be procured in all cases of transfer. Sometimes the owner makes a deed of grant during his lifetime and delivers it under cover to the local officials, who keep it and seal it and after the owner's death open it to see who is to be the new owner; but the grantor may change the deed at any time before his death.

---

1. *Uke-modosu* (receive-take back). 2. *Ryu-chi*. 3. *Nenki-yama*. 4. *Nayose-cho*. 5. *Te-cho*. 6. *Mizu-cho*. 7. *Ko* (selling and buying)-*ken* (document)-*cho*.

In Mino *kuni*, Atsumi, Kagami, and Katagata *kori*, there is a register [1] in every village, in which the production, area, common name, and owner's name of each piece is recorded, the title being thus certified. A family that inherits an ancient register of land-inspection is highly esteemed; but few ever show the genuine one, if they have it, for fear that if they become bankrupt and their effects are sold, it may pass out of the family.[2] In town wards there is a house register [3] kept by the ward officials, in which are recorded the frontage and depth of each house and its owner's name, the title being thus certified. In Ahachi *kori*, there is a register of the ordinary kind, and in some villages a copy of the record relating to each owner is given to him.

In Shinano *kuni*, Saku *kori*, in order to have ownership in real property, such as cultivated or forest land, one's title must be entered in the land-register.[4] But the ownership of personalty, such as animals and household utensils, is complete without such entry, and the possessor may keep such property against all others, until better evidence is offered. In Hanu *kori*, the owner of cultivated land, forest land, ponds, or marshes, as well as the owner of rice or money, may obtain a profit by letting others have the use of such money or rice or the natural products of such land.

In Iwaki *kuni*, Shirakawa *kori*, there is a register [5] kept by the headman,[6] in which the production and area of each plot, with its owner's name, are recorded. These are called "original lands," [7] and on them are imposed the expenses

---

1. *Taka-cho.* 2. The official who had charge of the book apparently took possession of it when a new one was made out, and handed it down in the family. The editor possesses a number of documents obtained from the family of a former headman. 3. *Iye-nami-cho.* 4. *Jikata bosatsu.* This sentence is badly constructed and the above rendering merely the most probable. 5. *Mizu-cho* or *taka-yosei-cho.* 6. *Shoya.* 7. *Hon-den.*

of furnishing horses and men for official travellers at post-towns; and on the newer lands no such service is imposed.

In Iwashiro *kuni*, Shinobu *kori*, there is a register kept by the village-officers for cultivated and forest land, in which a record of the usual sort is made. Every owner has a copy of the entries relating to himself in the shape of a small ticket, which they call "hanging-ticket"[1] or "share-ticket,"[2] the title being thus certified.

In Rikuzen *kuni*, Toda *kori*, the ownership of hereditary cultivated lands and of buildings is not certified by any ticket, but is recorded in a land-register[3] kept in the office of the headman.[4] But title to all other real property is evidenced by a certificate of some kind. The owner of realty can do as he pleases with it, except that he may not sell it in perpetuity. His ownership is inviolable, unless it is confiscated[5] for crime or taken[6] for public purposes. The latter occurs when the feudal lord needs the land for a special purpose or when a reservoir or storage-dam for public use has to be constructed on the land. An order is issued for the taking, and other land is given by way of recompense; but if there is no other land that can be so given, the owner of the plot taken must suffer the loss and cannot even claim the price. By an enactment of Kwansei, 9th year (1796), no one can own land of more than 5 *kwammon* in value, nor set apart land for a son establishing a new family, unless the family estate is over 3 *kwammon* in value; but the law does not apply to land acquired before that date or to town-lands.[7] The ownership of horses and oxen is evidenced by a tag[8] (one for each head), given to the owner by the feudal official, through the headman, and renewed every year. Any person having cattle without such a tag is punished by house-imprisonment. All other personalty may be owned and disposed of without any certificate.

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1. *Sage-fuda.* 2. *Hai-fu.* 3. *Taka-cho.* 4. *Kimoiri.* 5. *Kessho.* 6. *Tō-moku.* 7. See Appendix. 8. *Kai* (inspect)-*han* (seal)-*shi* (paper).

In Uzen *kuni*, Okitama *kori*, lands and buildings in towns are recorded in the land register.[1] The person so entered as owner has a perfect title, and may sell, pledge, or otherwise dispose of the property. His ownership is inviolable, except in case of confiscation for crime by order of the feudal lord. The owner of upland may turn it into rice-field, and *vice versa*. Balks between rice-fields are regarded as part of the fields, but not the grass growing on them, and any one may cut and take the grass. A hill-side adjoining rice-field or upland belongs to the owner of the latter; that is, if at the foot of a hill there is a rice-field 10 *chō* in area, owned one half by one man and one half by another, each is owner of half the hill-side. But one may dispose of his share to the other, who will then own the whole and may dispose of the grass, trees, etc., as he pleases. Personalty may be transferred without the use of documents or records of any sort, and possession[2] proves ownership unless better evidence is produced; except that the ownership of horses and oxen is evidenced by a wooden ticket.[3] When saltpeter is discovered in a lot of residence-land, the feudal lord has the exclusive right of mining it. But compensation will be paid to the owner for any injury inflicted thereby, such as the loss incurred through destroying the surface, or, if a house is thereon, the expense of rebuilding it.

In Ugo *kuni*, Akita *kori*, when waste land is reclaimed and cultivated, a portion of the area is set aside and exempted from all taxes for an indefinite time. The portion is known as "new-cultivation exemption."[4] When it is desired to sell it, both buyer and seller must apply for permission to the feudal official. But the absolute ownership does not pass to the buyer. As soon as the contract of sale is made, the portion becomes chargeable with the

---

1. *Mizu-cho.* 2. *Te ni aru* (to be in the hand). 3. *Kan-satsu.* 4. *Shin* (new)-*ro* (labor)-*men* (exemption).

taxes and other charges, the amount of these being entered in the land-register,[1] and the certificate noting the area of the land and the name of the village being delivered to the buyer. The new occupant thereafter pays to the nominal owner the amount of the taxes, [the latter paying to the proper official], while the occupant acquires a perpetual right to the profits of the land. This is called an "income-possession."[2]

HOKKAIDO. In Oshima *kuni*, Kamedo *kori*, [in villages] if one pays to the feudal lord a rent of 5 *yen* for every 100 *tsubo* of upland, he becomes its owner, and receives a title-deed.[3] The same rule applies to town-land also. There are no terms such as "production" or "area." In Tsugaru *kori*, there is a so-called "land-instrument"[4] for residence land, countersealed and indorsed by the officials, and serving as proof of title; no register is used. Few persons own forest-land, the feudal lord owning almost all, and there is no report of sales to the officials.

HOKUROKUDO. In Echizen *kuni*, Asuha *kori*, a register[1] is kept at the village office, in which the usual entries are made. The officials also copy the entries relating to separate owners upon slips of paper called "hand-tickets,"[5] and, affixing their seal, they distribute to the owners these proofs of title. In Kubiki *kori*, all utensils and other personalty, except guns, may be used or sold as the owner pleases, nor is any document necessary.

In Kaga *kuni*, Ishikawa *kori*, by law of the fief, land cannot be subdivided by will among one's children unless it is of more than 50 *koku* assessment. Hence has arisen a custom of distributing one's land among one's children under the name of a sale. An old law prohibits the grant or

---

1. *Taka-cho.* 2. *Chigyo* (a term applied to the right of the higher *samurai* to the profits of a definite district or plot)-*daka.* 3. *Ko-ken.* 4. *Jimen-shomon.* 5. *Tefuda.*

sale of [village] land to temples,[1] *samurai*, and merchants. In Kawakita *kori*, farmers only may own cultivated land; otherwise the acquisition of all kinds of property is permissible. In Nomi *kori*, it is an old rule that rice-field and upland (called the "chief-possessions")[2] may not be owned by common persons, and may not be sold, leased, mortgaged or otherwise disposed of by the occupant. So that when a person wishes to transfer land occupied by him, he petitions the feudal official, declaring that he cannot pay his taxes, and praying permission to transfer the land to another, and pay taxes with the money received as compensation for the transfer (the word "price" not being used). This transaction is called "change of possessions."[3]

In Noto *kuni*, Suzu *kori*, the supply of rice is a limited one in proportion to the population, and exportation, as well as manufacture into wine, is forbidden. In the districts of the salt industry the people are obliged to obtain a vast amount of rice (called "Government-advance"[4]) from the feudal lord, and a fixed number of bags of salt are given in exchange for 1 *koku* of rice. The law requires, therefore, that all salt produced in this *kori* shall be directly deposited

---

1. This seems inconsistent with what is said as to gifts to temples, in Chap. II, "Temple-Endowments." But the reference may be merely to the law prohibiting the erection of new temples (XII Kyoho, 1727, Rudorff, *Tokugawa Gesetzsammlung*, 54), which however hardly reached to this daimiate; or we may supply (as is necessary not infrequently) the words "without official sanction." 2. *On-taka*. But the "on" may be the honorific used of the things belonging to a superior. Hence, one construction of the passage may be (especially considering the reference to the "common people") that the land was nominally owned by *samurai*, and being received by them directly from the lord, it could not be alienated without his permission. The analogy of one of the Tosa tenures, as described by Mr. Grinnan in his paper on "Feudal Land Tenure in Tosa" (Trans. Asiat. Soc. Jap., 1892), leans to this view. 3. *Kiri* (cut, erase,—hence, substitute one entry for another)-*taka*. 4. *O-shiire-mai*.

in the storehouse of the clan, and may then be bought by any who wishes it. No salt may be privately sold, nor can it even be used until it has been thus deposited.

In Echu *kuni*, Tonami *kori*, where a man has undertaken with the consent of the superintendent of new-cultivation,[1] to improve the upland of another and cultivate it for a number of years, and before the expiration of the time turns it into ricefield at his own expense, he becomes the owner of the land by paying the original owner the value of the upland.

In Echigo *kuni*, Koshi *kori*, when in consequence of an overflow of the Shinano River there occurs an increase and diminution of land by a detachment[2] of land in one place and an accretion[3] in another, the owners of the detached land must bear the loss, and the benefit of the accretion goes to the owner of the land increased. In Kambara *kori*, the ownership of town lands is evidenced by a land register[3] kept in the ward assembly-house. Sales are noted therein, with the date and the names of buyer and seller. An inspection of the register is made in the first month of every year by the ward representative and the elder. In addition to this record, each owner has a title-deed for his possessions. Almost all the upland, rice-field and forest land has been acquired by the appropriation and improvement of the public waste-land, a price being paid to the feudal lord and the receipt being used as a title-deed. Houses, as well as cattle, money, etc., are not entered in the land-register and can be freely sold or lent. In Kubiki *kori*, the ownership of lands in towns (including buildings) is evidenced by a document sealed by the company and headman, countersealed by the elder, and attested by the governor. A copy is entered in the land-register, here called "house register."[4] Buildings and lands in towns can be sold only to residents of the same town. In Uwonuma *kori*, the ownership of cultivated and forest land is evidenced by the

1. *Kaisaku-bugyo.* 2. *Kake-chi.* 3. *Yose-chi.* 4. *Iye-cho.*

land register.[1] Mortgages of land are permitted for a term not exceeding 10 years, even though the mortgagee is in another fief; but sales are absolutely forbidden.

In Sado *kuni*, Sawata *kori*, there is a register[2] of the period Genroku (1688-1704). This is carefully preserved at the village office and is called the "official map-book."[3] When the villagers assemble at New Year to exchange the season's good wishes, the book is placed upon an elevated floor, and with offerings of consecrated wine they pay reverence to it. There is a copy of it called "bag-book,"[4] in which are entered the production, area, and owner's name of all the lands in the village, the title being thus certified. In town-wards there is a register[1] in the possession of the ward-elder, and in it are recorded the frontage and depth of every house in the ward, with the owner's name, the title being thus certified.

SANINDO. In Tajima *kuni*, Izushi *kori*, there is a register[5] kept by the headman[6] of every village, in which are entered the production, area, common name, and owner's name of every piece of rice-field, upland, and forest-land. A copy of the relevant entry is given, on request, to every owner. In town-wards, there is a house-register[7] kept by the headman,[8] in which the frontage and depth, with the names of owners, are entered, the title being thus certified. In Idzumo *kuni*, Shimane *kori*, the ownership of residence-land is evidenced by a "sale title-deed."[9] Of personal property there is no record or document. All can be sold, mortgaged, or otherwise disposed of at pleasure. The ownership of cultivated and forest land is evidenced by a "person-name-list book."[10] This also may be sold, mortgaged, or otherwise disposed of at pleasure, provided taxes are not in arrears. No one can under any circumstances be

---

1. *Mizu-cho.* 2. *Ken-chi-cho.* 3. *O-zu-cho.* 4. *Fukuro-cho.* 5. *Taka-cho.* 6. *Shoya.* 7. *Ken* (length)-*betsu* (difference)-*cho.* 8. *Nanushi.* 9. *Bai-ken-jo.* 10. *Nimbetsu-nayosei-cho.*

deprived of his property against his will. The owner of cultivated, forest, or residence land, or of ponds or marshes, is entitled to retain all the profits issuing therefrom, whether arising in the course of nature or produced by human industry.

In Iwami *kuni*, Naka *kori*, when the owner of cultivated or residence land cannot pay his taxes, it is the custom for the headman[1] to pay them instead, and if frequent defaults of this sort occur, the land is confiscated by the headman and becomes the common land of the village (being called "common cultivation-land," [2]) and the owner loses all title to it.

SANYODO. In Harima *kuni*, Shikito *kori*, a register[3] of the usual kind is kept by the headman.[1] This is copied once in every five years and one of the copies placed in the temple of the local divinity.[4] In town wards there is a register[5] of the usual sort. There is also a title-deed[6] for every house, and on the occasion of a transfer this is given to the feudal official with the petition, and a fresh one is returned to the buyer, a fee[7] of one-twentieth of the purchase money being paid at the same time. Where the transfer is one for which no charge is made (as for instance, when the partition of a family patrimony occurs), a small transfer-fee[8] only is paid.

In Mimasaka *kuni*, Shonan *kori*, the terms "right-ladle"[9] and "left-ladle"[9] are used of riparian proprietorship. The river is usually in the control of the village on the right bank, which pays the taxes; so that the village on the left bank cannot do as it pleases, even in regard to fishing.

In Bigo *kuni*, Mitsuki *kori*, a register[3] of the usual sort is kept by the headman[1] of the village. In towns, the

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1. *Shoya*. 2. *So* (all)-*sakuchi*. 3. *Nayose-cho*. 4. *Ujigami*. See Satow, Transact. Asiat. Soc. Jap., Vol. III., App. 5. *Mizu-cho*. 6. *Kokenjo*. 7. *Tesuryo*. 8. *Cho-kiri-ryo*. 9. *Migi-shaku, hidari-shaku*. The significance is obscure.

ward-elder keeps a house-register[1] in which areas and names of owners are recorded, the title being thus certified. Every house owner also has a title-deed,[2] officially sealed by the elder and serving as proof of title.

In Aki *kuni*, Numata and Aki *kori*, a register[3] of area, size, and owner's name is kept by the headman. A copy of the relevant entry, sealed by the local officials, is delivered to each owner; this is called "*tsubo*-fixer" and serves as proof of title.

In Suwo *kuni*, Yoshihiki *kori*, the ownership of residence-land is evidenced by a title-deed, having on its face the seals of the elder, chief elder, and ward officers, and on its back the attestation of the district-deputy;[4] while that of cultivated or forest land is evidenced by a certificate, bearing a transcript of the entry in the land-register.[5] On this certificate[6] are entered the person's possessions as a whole, the total assessed production being named and separate parcels not being distinguished. The owner, therefore, who wishes to transfer a separate parcel is obliged to have the certificate made out anew; but this cannot be done except at the time of the revision of the register, which ought by law to occur in the 3d month of every year, but in fact, owing to the inconvenience, does not occur oftener than once in 3 years. For buildings alone there is no certificate of ownership. Personalty may be disposed of at pleasure without any restraint whatever; but not realty. In Tsuno *kori*, the ownership of cultivated, forest, and residence land, is evidenced by a certificate,[7] containing a transcript of the

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1. *Iye-cho.* 2. *Uriki-jo.* 3. *Mizu-cho.* 4. *Daikwan.* 5. *Tahata-nayose-cho.* 6. *Sage* (hang, let down)-*fuda* (ticket). The *sage* may imply that the ticket was pasted on the register, one end hanging loose—a not uncommon practice in Japan. But probably the sense of "something sent down by a superior" is here the proper one. The *sagefuda* was made out and given to the land-owner by the officials. 7. *Sagefuda.*

land-register (known as "horizontal-book"[1] or "assembly-book"[2]) and inspected officially every 3 years. In Kaga *kori*, the owner of cultivated, forest, or residence land or of ponds or marshes is entitled to retain all the profits issuing therefrom, whether arising in the course of nature or produced by human industry.

In Nagato *kuni*, Toyoda *kori*, when a person is unable to pay his taxes, his company, perhaps all the fellow-villagers, form a lottery-club,[3] and pay the taxes with the money thus collected. The owner, in return for this, agrees to hold his land for the benefit of the club, and, while continuing to cultivate the land, pays off the debt gradually by buying up the lottery-tickets, until finally the debt is redeemed and he becomes full owner once more.

In Tosa *kuni*, Kochi *kori*, "new-land"[4] only may be sold, not "original-land."[5] The latter term is applied to all lands cultivated and recorded in the register during the rule of the Chosokabe family; the former term is used of lands brought under cultivation during the rule of the Yamauchi family.

In Awa *kuni*, Nabigashi *kori*, the owner of property may deal with it as he pleases, except that for transfer of assessed cultivated land, forest land, lakes or swamps, previous notice to the headman and the securing of his official seal are necessary. In Miyoshi *kori*, there is an old rule that he who is in arrear with taxes or other dues may not, until the arrears are paid, deliver any portion of his rice to another, even on the pretext that he owes to the latter a quantity of rice.

In Sanuki *kuni*, Kagawa *kori*, in villages, a register[6] is kept in which the production and area of each plot, with the

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1. *Yoko-cho.* The idea may be that the book was longer horizontally than perpendicularly, as in fact some of the land-registers are. 2. *Za* (seat, assembly)-*cho.* 3. *Mujin-ko.* 4. *Shinden.* 5. *Honden.* See Tosa *kuni*, in Part II, Chaps. III and IV. 6. *Jundo-cho.*

owner's name, are entered, and a document bearing the official seal of the headman[1] and company-chief serves to prove title. In towns a register[2] of the usual sort is kept. In Naka *kori*, a register of the usual sort is kept, in villages[3] as well as in towns.[4] In sales of town-lands a proper slip is posted over the name of the seller, and the attesting seal of the chief elder is affixed.

In Iyo *kuni*, Uma *kori*, a great register[5] of a similar sort is kept; and the relevant entries are copied on small certificates[6] and given to the various owners, each bearing the seal of the district magistrate[7] and deputy.[8] In town-wards a register[9] of a similar kind is kept. In transfers of property both parties file a petition countersealed by their companies, and the town-magistrate gives a document of permission.

SAIKAIDO. In Chikugo *kuni*, Mitsuma *kori*, some formal process sanctioned by custom is requisite to gain title to real property, while as to personalty delivery of possession only is sufficient.

In Buzen *kuni*, Kiku *kori*, a register[10] is kept in the village office, in which is recorded the production, area, and common name of all plots of cultivated and forest-land, as well as the owner's name; each owner keeps a "transfer-document," certifying to his title. In towns a transfer-book[11] is kept, in which all instruments of transfer are entered, the title being certified to by the counterseal of the ward elder and chief elder, and by the indorsing seal of the town magistrate. In Shimoge *kori*, a register[12] of a similar sort is kept for cultivated and forest land, each owner having also a "transfer-deed" to certify to his title. In towns a register[13] of the usual sort is kept.

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1. *Shoya*. 2. *Uri* (sale)-*ken* (deed)-*cho*. 3. *Nayose-cho*. 4. *Meisai* (details)-*nuke* (strike out)-*tsuke* (enter)-*cho*. 5. *O* (great)-*sagefuda* certificate). 6. *Ko-sagefuda*. 7. *Kori-bugyo*. 8. *Dai-kwan*. 9. *Sun* (inch)-*ken* (examination)-*cho*. 10. *Nayose-cho*. 11. *Yuzu-ri-watashi-cho*. 12. *Saku* (cultivation)-*nami* (in succession)-*cho*. 13. *Mizu-cho*.

In Hyugo *kuni*, Miyazaki and Koyu *kori*, a register of rice-field and upland is kept in every village-office. Most of the land is "allotment-land,"[1] and every 8 or 5 years the land is re-divided[2] (except the newly reclaimed lands[3]), and more or less alteration takes place in each one's share;[4] so that although one may call himself the owner of land of so and so many tens of *koku*, the term "owner" is a vain one. In towns a register[5] is kept in the ordinary way, the title being thus certified.

In Osumi *kuni*, Sō *kori*, there is a strict rule that a farming family[6] cannot own town land, nor a merchant family[7] own village land. The rice-fields and uplands are all owned by the feudal lord and his retainers, and the common people cannot become owners; they may in fact be regarded as croppers, with the exception of those who reclaim new land; these acquire its ownership and a special record is kept of such in the register[8] of the village office. This register contains also the usual record of the production and area of all rice-field and upland; and there are several greater persons[9] who distribute the land among the lesser persons,[10] and these cultivate their respective portions.[11] All persons between the ages of 15 and 60 are numbered among these lesser persons, and the taxes and sundry services are paid by them. In the case of town lands, the title is certified to by a deed received from the feudal official.

In Iki *kuni*, Ishida *kori*, two registers are kept in each village for cultivated and forest land. In one, the "clear book,"[1] are entered the production and area, with the

1. *Kuji-chi*. 2. *Wari* (divide)-*kayeru* (come back). 3. *Shin-kai-chi*. 4. *Uke-mochi*. 5. *Dai-cho*. 6. *Nōka*. 7. *Sho-kō*. 8. *Moto* (original, chief)-*cho*. 9. *Na* (name)-*gashira* (leader, head), i. e. their names lead all others. 10. *Na-ko* (children), i. e. lesser names. Another explanation is that *na* signifies the name given to a piece of land, and hence the land itself. Thus the *nagashira* are the chiefs over the land. See Simmons, "Notes, etc.," p. 101. 11. *Bunko*. 12. *Kyo-cho*.

owner's name, of all newly-opened land,[1] as soon as it is surveyed. But as all land except forest-land and made-land [2] is the common property of the whole village, even a person who has newly-opened land has no permanent ownership, and his land is included in the process of equal distribution among all the villagers. There are two ways of distribution, distribution by official orders[3] and distribution by mutual consultation.[4] In the former case the feudal official orders the distribution-superintendent[5] to make the division. The latter occurs when many families have divided, branch families have been set up, and their land has in consequence diminished and their livelihood become difficult. These then have a consultation of the whole village or district,[6] and a general allotment of shares[7] is made. Waste-land newly brought into cultivation is surrendered by its owner to the village or district, but if the reclamation has been made but a short time before, so that the profits as yet accruing are small, the owner is allowed, after an inspection of the land, to keep it until the next general distribution. This is called "temporary ownership until the next distribution."[8] In the second register[9] are entered the production and area of the lands as received at the time of a general distribution; this is for the purpose of tax-collection.

In Tsushima *kuni*, Shimoagata *kori*, there is one register[10] in which the production and area of all rice field and upland are entered; and a second register, called "present-cultivation-book,"[11] in which are entered the names of the cultivators.[12] There are two kind of lands, public and private. That which is newly opened and cultivated by a man's own efforts is called "private land,"[13] and he is in

1. *Kaikon-chi*. 2. *Kaimen* (sea)-*ume* (bury)-*tsuke* (build)-*shinden* (new land). 3. *Go-ho-wari*. 4. *Sodan-wari*. 5. *Wari-bugyo*. 6. *Fure*,—the extent of this district is obscure. 7. *Kobun haiyo*. 8. *Matawari-ichidai*. 9. *Taka-yose-cho*. 10. *Tsubo-tsuke* (fix)-*cho*. 11. *Ima-saku-cho*. 12. *Tsukuri-nushi*. 13. *Shi-den*.

reality the owner. But the land which has been cultivated since early times is called "public land,"[1] and its cultivators (called "present-cultivators") can only take the profits[2] of the land and have no ownership. In towns there is a register[3] in which frontage, depth, and owner's name are entered, and the title is thus certified. A tax, called "rafter and room money,"[4] is imposed on town-lands.

1. *Ko-den.* 2. *Saku-toku-mai.* 3. *Ki-cho.* 4. *Keta-ma-sen.*

CHAPTER II.

LESSER RIGHTS CONNECTED WITH LAND.

1.—BOUNDARIES.[1]

KINAI. In Yamato *kuni*, Soyegami *kori*, boundary-fences are erected and repaired by the owner on the sunny side.[2]

In Settsu *kuni*, Nishinari *kori*, the repair of a fence must be done at the joint expense of the owners on each side and under their joint supervision.

TOKAIDO. In Mikawa *kuni*, Atsumi *kori*, there is for every house in a town a drain for conveying away filthy waters, running along the boundary line of the premises. The saying is, "The west for drains, the east for fences: the north for fences, the south for drains." That is, the houses on the west or the south of a drain must see to its cleaning; while the houses on the east or the north of a fence must see to its repairs.

In Kai *kuni*, Koma *kori*, fence-repairs are to be made at the expense of the owners on each side, sharing equally; but if one is too poor, the other must bear the whole. In Yatsushiro *kori*, where a canal or a river serves as a

1. *Bunkai.* 2. *Hi-omote* (sun in front).

boundary, the middle line of the river or canal is the boundary line, and repairs are made at the joint expense of the owners on both sides.

In Musashi *kuni*, boundary fences and walls are recorded in a map kept at the ward-assembly office, and known as "certificate."[1] In the period Kwanyen (1748-1750) there was an examination of all boundaries and a revision of the maps; but fire afterwards destroyed them, and there is now much confusion and error in regard to the lines. It is the custom in villages to mark the boundaries of land by a line of stones or of charcoal set into the earth.

TOSANDO. In Shinano *kuni*, Takai *kori*, when the owner of land wishes to erect a fence, it must stand 2 or 3 feet from the boundary and must not exceed 4 or 5 feet in height.[2] The expenses of repairing fences between residence or garden land and the like are to be borne by the owners equally, but in the case of cultivated land, according to the assessed production of the plots on either side. In Hanu *kori*, the repairs of a boundary-fence running east and west, the owner on the south side must make the repairs.

In Rikuzen *kuni*, Miyagi *kori*, fences are usually built and repaired by the arrangement called "sending-fence"[3] or "sending-boundary;"[4] that is: A repairs one-half part, and B repairs the other half.[5] But sometimes the work is done at joint expense; often one owner supplies money, the other services. In Toda *kori*, the custom of "sending-fence" obtains, each owner repairing his own side. The fence stands about 1½ feet from the boundary, and may be 3

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1. *Koken.* 2. So as not to cut off the sunlight from the next land. But the rule should apparently apply only to the southerly owner. 3. *Okuri* (send)-*kaki.* The connection is obscure. 4. *Okuri-sakai.* 5. The passage in Ugo *kuni*, *infra*, shows the meaning of this unsatisfactory explanation.

or 5 or even 10 feet high, as the owner pleases; the material may be boards or bamboo or living shrubs. But in former times the farmers were not permitted to build a board fence. When a canal or river forms the boundary, an earth-mound is made along each bank for the whole distance, quite distinct from the private lands adjacent. The width of the mound for a 6-foot canal would be 3 feet on each side, and the owners on each side repair one half of the canal. Sometimes a moat serves as the boundary, encircling the residence-land on all sides; the land-owner owns the moat and therefore repairs it at his own expense. Formerly this was a common practice, but owing to a prohibition at one time issued, these moats are now seldom met with. Where a river separates two villages, the middle line is the boundary. Even when the course of the river is changed by a flood, this line remains the boundary. The area covered by the new channel is called "lost land," and the assessment of the owner is proportionately reduced; yet his name is still preserved as owner, even though the river covers his property.

In Uzen *kuni*, Okitama *kori*, the owners of residence-land must repair boundary fences at their joint expense. The fence must not exceed 6 or 7 feet in height. Where a river separates two villages, the banks form the boundary, not the middle line. When the course of the river is changed by a flood, so as to cut off a portion of the land of one village, this portion is owned in common. The same rule obtains where the alteration of course has been within the limits of one village and an individual proprietor finds his land cut off.

In Ugo *kuni*, Akita *kori*, when a river or canal serves as a boundary, the line runs through the middle of the stream, stakes being driven to mark the line. Each half of the river or canal is repaired by the owners on that side, though sometimes it is made a matter of joint expense. The "sending-boundary" is customary in re-

gard to fences; thus, A repairs the northern fence, [dividing his land from B's], B repairs his northern fence and so on. In Yuri *kori*, the boundary fence [in towns] is usually placed midway in the spaee of 1½ feet left between two houses, and is repaired at joint expense. Where two houses are built with a single partition wall and a continuous roof, the wall and roof are repaired at joint expense.

HOKUROKUDO. In Echizen *kuni*, Asuha *kori*, the boundaries of residence-land in towns are marked by stakes of chestnut trees driven into the ground 3 feet deep; and when the residence is sold, the stakes are taken up and fresh ones driven. Repairs of fences form a joint obligation, the parties on each side repairing one half.[1]

In Echigo *kuni*, Kambara *kori*, [in towns], a drain is made in the space of 1½ feet (known as "shed-space") required to be left between two houses. The drain serves as a boundary, a stake being driven in the middle. The space of 7½ inches[2] belongs to each house, and repairs are made jointly. In Uwonuma *kori*, where a river separates two villages, the middle line is the boundary. Nor, when a flood alters the course of the river does the boundary change; but the new channel is owned half by one village, half by the other.

In Echigo *kuni*, Koshi *kori*, the drains between adjacent lands are used as boundaries, the dividing line running through the middle of the drain. Each owner repairs his own fences.

In Echu *kuni*, Imizu *kori*, the owner (for example) of plot A repairs the fences between A and B, the owner of plot B the fence between B and C, and so on.[3] [Sometimes], if the fence (for example) is 2 feet thick, one owner repairs one foot of thickness, the other the other foot. If one owner refuses or is unable to do his share, he is considered to have

1. Probably the same arrangement termed *okuri-sakai*, in Ugo *kuni*, and Rikuzen *kuni*, *supra*. 2. A Japanese foot has only 10 inches. 3. This corresponds to the *okuri-sakai*, *supra*.

waived his right in the fence. [Sometimes], if the fence is (for example) 20 *ken*[1] in length, each owner repairs 10 *ken*; or they may repair the whole at joint expense, and a failure to do one's share is regarded as a waiver of ownership. A drain may not be dug along the boundary without the consent of the adjacent owner.

SANINDO. In Iwami *kuni*, Naka *kori*, the line where grass ceases to grow is the boundary between the shore and private lands, and the breadth of the shore is usually about 120 *ken*, that is, from the tide-line to cultivated land.

In Idzumo *kuni*, Nomi *kori*, where a river separates two villages, the middle line is the boundary.

SANYODO. In Suwo *kuni*, Tsuno *kori*, fences are repaired by both owners jointly; and the same is true of rivers and canals. In Kyuka *kori*, the owner A repairs the fence between his land and that of B, the next owner on the north, B, the fence between himself and C, the next on the north, and so on. Where a river or canal serves as boundary, the property owners repair it at joint expense, where it passes between residence plots; where vacant land is on either side, the repairs are done by the authorities. In Yoshihiki *kori*, where a river separates two villages, the middle line is the boundary; nor if the channel of the river changes does the boundary change.

NANKAIDO. In Awa *kuni*, Nabigashi *kori*, among the *samurai*, boundary fences are erected and repaired by the owner on the sunny side. This is known as "sun-responsibility."[2]

In Tosa *kuni*, Ogawa *kori*, a boundary fence is erected and repaired by the owner on the sunny side, and a drain is made on the shady side.

SAIKAIDO. In Chikugo *kuni*, Mii *kori*, boundary fences are repaired by the owner on the shady side;[3] this is in

1. 1 *ken*=about 6 feet. 2. *Hi-ukemochi*.
3. *Hi-ka* (below the sun).

order that the other owner may not be able to construct the fence in such a way as to cut off the sunlight.

In Bugo *kuni*, Hayami *kori*, the repairs of a boundary fence are undertaken jointly by the adjacent owners.

In Hyūga *kuni*, Usuki *kori*, the owner of riparian land undertakes the repair of the fencing on the lower side[1] of the land, as the river flows.

In Satsuma *kuni*, Satsuma *kori*, in towns only, boundary fences are repaired by the owner on the sunny side.[2]

2.—VICINAGE.

KINAI. In Yamashiro *kuni*, Kadono *kori*, in towns, it is allowable to place the foundation close up to the boundary. Where a window has existed since old times, a neighbor cannot claim to have it closed, even though it overlooks his land; but an overlooking window cannot be newly made without paying to the adjacent owner a sum of money, called "window-opening money." In villages a [new] house must stand back 8 feet from the line of the raindrip[3] [of the neighboring house]. When one builds a house, he must give the two adjacent owners a document engaging not to allow his trees to exceed a proper height; he must also file with the feudal official a petition, accompanied by a certificate from the adjacent owners that they have no objection, and must also have an official inspection of the building after its completion. The standard for the height of trees is that they shall not overtop the roof-ridge; if one grows higher, the owner must pay "shade-money" to his neighbors.

In Kawachi *kuni*, Shiki *kori*, a house must not be so built as to cut off the sunlight from the adjacent house.

In Settsu *kuni*, Yabe *kori*, it is everyone's privilege to build as high a house as he pleases, notwithstanding that it

1. *Kawa-shimo-mochi*. But the passage is obscure. 2. Lit., above the sun. 3. *Ama-ochi*.

overlooks adjacent land. But the rain must not be shed upon adjacent land. In Nishinari *kori*, when a storehouse or projecting lattice[1] is built too near the public highway, the owner must consult and obtain permission from the ward-elder and the neighbors; and whenever repairs are to be made to it, the same procedure is necessary.

TOKAIDO. In Iga *kuni*, Abe *kori*, a house may be built close to the boundary-line; and if the rain is shed upon the adjacent land no objection can be made. But when one builds a house higher than the adjoining ones, it is the custom to cut out a part of the transverse beam supporting the ends of the eaves [of the new house]. That it overlooks the adjacent premises is no cause for objection.

In Ise *kuni*, Ano *kori*, all buildings must stand back 1½ feet from the line. No objection can be made if a house overlooks the neighboring premises, either from its second story or from a window. But in order to grow a high tree in cultivated land one must pay, in rice or money, a sum called "shade-payment"[2] as a compensation for the obstruction of sun-light. In towns the rain must not be shed upon adjacent ground; and a law of the fief prohibits the erection of a three-story house or of a storehouse.

In Omori *kuni*, Aichi *kori*, people dislike to have a neighboring house overlook their premises from a second story or a window, and a screen[3] must always be constructed. Rain may be shed upon adjacent premises. In villages tall trees are not to be placed where their shade may injure cultivated land, and if a tree grows above 18 feet[4] in height, the person injured may cut it down.

In Totomi *kuni*, Sano *kori*, in towns it has always been allowable to place houses close together, without providing any sun-space. But in villages it is customary to build far enough away from the boundary to shed the rain on one's own land.

1. *Tsuri-koshi*. But the exact reference is not clear. 2. *Kage-shiki*. 3. *Mikakushi*. 4. Three *ken*.

In Kai *kuni*, Koma *kori*, a new house must stand 1 or 2 feet from the boundary, so as not to shed rain on the adjoining land. In Yatsushiro *kori*, in towns, the distance from the line is not less than half a foot or 1 foot, and it never exceeds 3 feet. In Yatsushiro *kori*, one cannot plant a tree on his own land [near the boundary] without the neighbor's consent.

In Idzu *kuni*, Takata *kori*, notwithstanding that one's land may be injured in consequence of its position [with reference to a building already existing], no objection can be made, since by old custom one must submit to this. But no new building can be erected which imposes any burden on adjacent land. It is customary to preserve a space of 3 or 4 feet width between the sides of houses, the test being that oxen and horses may pass through.

In Sagami *kuni*, Kamakura *kori*, there is a general prohibition against the planting of trees on the southern side of a neighbor's land, whether residence-land or cultivated land. Trees already planted are trimmed every year, so as to keep them from shutting off the sun-light. In Ashigara *kori*, the rule for the erection of a building is that it must be 6 feet distant from the adjacent premises; but when the land is too small for conveniently observing this rule, a mutual arrangement is sometimes made by which the builder of the new house is permitted to shed the rain upon the adjoining premises.

In Musashi *kuni*, Saitama *kori*, in building a house, a space of 1½ feet, and in building a storehouse, a space of 2½ feet, must be left between the building and the boundary lien. A tree planted in residence-land adjoining cultivated land must be placed 18 feet from the boundary line. Even then, if it casts a shade on adjacent cultivated land, the leaves must be removed, although it need not be cut down; yet if the adjacent land is meadow or rice field the tree must be cut down. In Iruma *kori*, a house must stand 1½ feet from the boundary line, and a storehouse 3 feet. When

it becomes necessary in building to erect an enclosure[1] about the premises upon a main road, it is customary to petition the local officers for permission. If a tree on residence-land grows to more than 10 feet[2] in height, it is customary to have a "shade-cutting." Whether small trees called "thatch-covered"[3] may be planted around the edge of a piece of cultivated land, is decided by consultation with the adjacent owners. In some villages it is required that, when timber trees are planted near cultivated land, a space of about 72 feet must be left on the southern side of the cultivated land and a space of about 60 feet on the western and northern sides. In Toyoshima *kori*, a new house must stand back half a foot from the boundary, making a distance of 1 foot between the houses. The object of this is to prevent the shedding of rain on adjacent land. But in recent times this rule has not been observed. The style of building known as "Osaka style" (in which the posts supporting the second story are placed directly on the front foundation line [instead of standing some distance in the rear]) is not permitted, except for theatres and prostitution-houses, which require large rooms and convenient egress in case of fire.[4] (Since the Restoration, a rule has been made that the foundation must stand 3 feet from the line).

In Shimosa *kuni*, Imba *kori*, ordinary trees must not be planted nearer to cultivated land than 1½ feet, and timber-trees not nearer than 18 feet. In Katori *kori*, in building a house it may be so placed as to shed rain upon the adjoining premises. To plant a tree near cultivated land the consent of the owner must be procured, and a timber

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1. *Soto-kakoi.* 2. One *jō*=ten *shaku.* 3. Because the rice-straw is tied around them to be sun-dried and become thatch. 4. The ordinary style gives only a gable roof with attic rooms, which do not give upon the street in such a manner as to allow speedy egress.

tree in such a spot must not in any case exceed 6 feet in height. A tree naturally growing there must be cut down immediately on the request of an adjacent owner.

TOSANDO. In Omi *kuni*, Shiga *kori*, a house must be so built as not to shed rain on the adjoining premises. In villages a space of 4 or 5 feet must be left within the boundary line, and a window opening on adjacent premises must have a screen. One may at pleasure plant trees close to the cultivated land of another; but in order not to give the adjacent owner the benefit of the rain collected and shed by the foliage, the foliage on the outer side of the tree is stripped off. In Inugami *kori*, a house must be built so as not to shed rain on the adjoining premises. A tree may not be planted near cultivated land so as to cast a shadow upon it; but sometimes a sum of money called "shade-rent"[1] is agreed upon and paid to the owner of the land so shaded. If such a tree grows beyond 10 feet in height, the excess is cut off.

In Mino *kuni*, Atsumi, Kagami, and Katagata *kori*, a house must be built so as not to shed rain on the adjoining premises; but an overlooking window is not objected to. Large trees cannot be transplanted near cultivated land. Trees already so planted must be trimmed off frequently. In Ahachi *kori*, a house must be built so as not to shed rain on the adjoining premises. If without consultation with the adjacent owners a house is built so high that the ends of the eaves overhang the adjoining premises, the builder cannot complain if the adjoining owners cut off the overhanging portion. If the second story of a house overlooks the adjoining premises, a screen must be put up. When a tree is near cultivated land, all growth over 10 feet must be lopped off. In Ono *kori*, before building a house in a town one must file with the feudal official a petition countersigned by his company and the ward officers of the place where the land is situated, and must also furnish a plan of the

1. *Kage-nengu.*

house. After due examination, permission is given. No such proceedings are necessary in case of a house in a village, but a house must stand back about 3 feet from the boundary line[1] of a road or of cultivated land; this is called "shade-withdrawal."[2]

In Shinano *kuni*, Takai *kori*, the house must be, on the south side, so placed that it does not shed rain on the land to the south, and on other sides, a space must be left equal to the length of the post [of the lower story].[3] Trees must not be planted near adjacent land on any side. In Saku *kori*, the foundation of a new house must be laid from 6 to 10 feet from the boundary. But in towns, where space is scarce, this rule is not observed. The owner of land standing high towards the south must see that he does not cut off the sunlight from residence-land [to the north of him]. But where the slope is upwards from south to north, the obligation is of course a light one. In Minochi *kori*, the tops of trees in residence or garden land must be lopped, so as not to obstruct the sunlight.

In Kotsuke *kuni*, Oharaki *kori*, the foundation of a house must be placed 1½ feet distant from the boundary line. No objection is taken if a second story or a window overlooks the adjoining premises. Trees planted on residence land close to cultivated land must stand 3 feet back from the boundary; and if they grow so as to cast shade on the adjoining premises, they must be lopped.

In Iwaki *kuni*, Shirakawa *kori*, before building a house in a town, one must file a petition showing the ground-plan; a ward-officer then makes an inspection and grants the permit. The house must stand 1½ feet from the boundary-line. In villages trees of a forest adjoining cultivated land are cut down all around for a space of 6 feet from the bound-

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1. *Kaisen.* 2. *Kage-hiki.* 3. This would be about 10 feet. The object of the greater space on the north side was to prevent the interception of the sun's rays coming from the south.

ary; this is called "tree-shade-cutting." Trees planted on residence-land must stand 3 feet back from the boundary.

In Iwashiro *kuni*, Shinobu *kori*, before building a house in a town, one must file a writing stating that the adjoining owners have no objection and procure the permission of the feudal official. The foundation must be placed 1½ feet from the boundary line. No objection is made if a second story or a window overlooks adjoining premises. Where in villages a forest adjoins cultivated land, the trees are cut down for a space of 18 feet from the southern boundary of the cultivated land and of 9 feet from the northern boundary. In Aidzu *kori*, the distance from the boundary is 1½ feet for houses and 2½ feet for storehouses. Windows are forbidden on the northern and western sides; windows on the southern and eastern sides, when intended for the admission of light, are lawful, but must have a screen. Trees casting a shade on cultivated land are prohibited; and though mulberry-bushes may be planted 3 feet back from the boundary, they must be cut down if complaint is made by the adjoining owner.

In Rikuzen *kuni*, Toda *kori*, large trees must not be planted to the south of a house in such a way as to cut off sunlight. Dwellings and storehouses are usually placed 1½ feet from the next house, but further, if there would result any inconvenience to the neighbor by the shedding of rain from the roof; for every one is under an obligation to avoid causing annoyance in that way. In Miyagi *kori*, the distance between two houses should be 1½ feet (the term being "wall extremities"); but the parties may by agreement lessen this distance, and the rule is by no means generally observed.

In Mutsu *kuni*, Tsugaru *kori*, no tree may be transplanted so as to cast a shade on cultivated land, and the growth of trees already so placed must be cut off.

In Uzen *kuni*, Okitama *kori*, the distance between dwellings is customarily 1½ feet, between storehouses 3 feet. The roof must be so arranged that rain and snow

caught by it will not fall upon the adjacent premises. Trees in residence land must be planted at least 3 feet from the line; otherwise the adjacent owner may remove them.

In Ugo *kuni*, Akita *kori*, in towns, a house must be so placed that the rain is shed within the boundary line of the adjacent house. On the public highway the house must stand back 6 feet, and from the front a short roofing projects, forming what is known as the "lesser store,"[1] and shedding the rain upon the highway itself. Under and through this any one may pass.[2] If the structure is burnt, the owner receives by way of assistance of the authorities the sum of 1½ *kwammon*.

Hokurokudo. In Echizen *kuni*, Asuha *kori*, a fee called "shade-money" must be paid to a neighbor on planting a tree close to his land. In Tsuruga *kori*, trees must stand 3 feet from the boundary; if the growth overshadows the adjacent land, the parties meet, determine the proper length, and cut off the branches to that point. In building a house in a town the permission of the headman must first be obtained, after petition and inspection; and thus no controversies arise as to the overlooking of windows or the shedding of rain. Storehouses are placed 1 foot from the boundary. In Kambara *kori*, where it is desired to raise the level of the land with a view to erecting a house, the owner must before building notify the ward-representative, who inspects the premises, and if the adjacent owners do not object, permission is given. If it is desired to place the house nearer the boundary than is allowed by law, the consent of the adjacent owner must be obtained, compensation of course being made to him. The extra distance thus allowed is 1½ feet, and the expression "carpenter's

1. *Komise*. 2. The object was apparently to make the owner pay for the privilege of shedding the rain into the street by furnishing the public with a sheltered passage-way.

rule"[1] is used. A written instrument noting the exceptional mode of building is in these cases always given.

In Kaga *kuni*, Ishikawa *kori*, in towns, permission to build a house must first be obtained by petition to the ward-assembly, on inspection being first made to see that no obstruction of streets is to be caused. In villages no permission is needed if the front-beam[2] of the house is shorter than 15 feet; if it is longer than 18 feet, permission must be obtained by filing a petition with a ground plan of the house. When a house is built near cultivated land so as to cause injury by its shade, the owner must give in compensation an amount of rice equal to that produced from a piece of land about 6 feet by 12 feet. In Kawakita *kori*, the distance between adjacent houses is always 1½ feet, without regard to the relative heights. In Nogi *kori*, dwellings must be placed about 6 feet from the boundary.

In Echu *kuni*, Nei *kori*, one must first procure the inspection and consent of the feudal official before a new house can be built. In Imizu *kori*, no objection can be taken to the building of a second story, even though it affords a view of the next premises; still, a window may not be made merely for the purpose of gazing into one's neighbor's house. The distance between two houses must be at least 2 feet. In Tonami *kori*, the owner of a house situated on upland or uncultivated land may not plant a tree within 12 feet of adjoining [cultivated] land. Where there are a number of plots of cultivated land, each owner must be careful not to plant trees so as to injure adjacent land by the shade. If this is done without consent of the other owner, the latter has the right to remove it.

In Echigo *kuni*, Kambara *kori*, a house must stand half a foot from the boundary, the distance between the houses being 1 foot. In Kubiki *kori*, it is a long-established rule that each person's snow must fall on his own ground;

1. *Daiku-ho.* 2. *Mayeguchi-utsubori.*

and if owing to the size of a house or its proximity to the next, its snow accumulates on the neighboring premises, the owner must go and carry it off. Where a window is made on the side of a house, there must be a space of 2 or 3 feet between the houses, In Koshi *kori*, houses stand back 1½ feet from the boundary. To overlook adjacent land is not permitted. In villages trees must stand back 3 feet from the boundary; but if a tree properly placed grows so as to cut the light from adjoining fields, no objection can be made. In Kariha *kori*, trees and houses, in villages, must stand back 3 feet from the boundary. But in some villages, called "land-distributing villages,"[1] it is the custom to make a [periodical] distribution[2] of all its lands, and the possessions of all the villagers are equal;[3] and if in these there is anywhere a tree which injures adjacent fields, the village officials have it removed.

In Sado *kuni*, Sawata *kori*, a house must stand back from the boundary 7½ inches, if it has a shingled roof, and 1½ feet, if it has a thatched roof. The overlooking of adjacent land is no ground for objection. If in a village a tree casts shade on an adjacent field, it must be cut down without delay. If a grove next to a rice-field grows and finally cuts off light, the owner of the field may cut down all the trees for a space of 2½ feet from the boundary, without any notice to the owner of the grove.

SANINDO. In Tamba *kuni*, Kuwata *kori*, on building a house one must first file a so-called "house-building petition," with a certificate of consent from the adjacent owners, and must obtain permission from the feudal official; and no complaints by others are thereafter receivable. Trees must be planted 18 feet from the boundary of adjacent cultivated land; and natural growth which encroaches on this space must be cut off. In Taki *kori*, a house-foundation is laid 1½ feet from the boundary, and the presence of the

1. *Jiwari-mura*. 2. *Wari-kaye* (divide-change). 3. *Kohei*.

neighbors is requested on such an occasion; though not where a storehouse or a mere out-building is contemplated. Screens must be used for windows that overlook. Trees standing near boundaries of cultivated land must not be allowed to grow higher than 15 feet, and branches extending over the boundary must be lopped off.

In Tango *kuni*, Kasa *kori*, the branches of trees standing near boundaries are cut once in 3 years, a consultation being first held. In towns the consent of adjacent owners and the permission of the elder must be obtained before building; and subsequent complaints are therefore rare. In Kumano *kori*, a house must not stand so as to shed rain upon adjacent premises; storehouses stand $\frac{2}{5}$ of a foot from the boundary. Screens are required for windows that overlook.

In Tajima *kuni*, Izushi *kori*, in villages trees must stand 2 or 3 feet from the boundary; if the branches grow out over the boundary, the overhanging part must be lopped off, the measure being made by erecting a bamboo stick at the boundary. In towns the inspection and permission of a ward officer must be asked, before building a house; so that complaints about overlooking others' premises are rare. Storehouses stand back from the boundary $\frac{4}{5}$ of a foot, if a *hafuya*,[1] and $1\frac{3}{5}$ feet, if a *taruya*.[1]

In Idzumo *kuni*, Shimane *kori*, a new house must stand $1\frac{3}{5}$ feet from the adjacent land; but the rule does not apply to outhouses. Windows so placed as to overlook the adjacent premises must be screened. In Nogi *kori*, in towns, the distance from the boundary must be $1\frac{1}{2}$ feet, the whole space being thus 3 feet. The object of preserving it is to provide a space for the drain. But in villages there is no rule, the parties settling the matter among themselves. Trees may not be planted within 6 *ken* of the boundary, in lowland, or 4 *ken*, in upland, though these distances

1. Local names for special kinds of buildings.

vary according to the slope of the land. In Kamikado *kori*, a new house stands 1½ feet from the boundary, that is, 3 feet from the next house. The object of preserving this interval [called "sun-striking"] is to allow opportunity for ingress and egress at the occasion of a funeral or of a commemoration,[1] when it is customary for the family not to appear on the public highway. So that there is in these towns invariably a passage between adjacent houses. Overlooking windows are forbidden, unless some good reason exists; but even then they must be screened.

In Iwami *kuni*, Shima *kori*, the distance between two houses must be at least 2 feet, in order that rain may not be shed on adjacent premises. If a man builds nearer, so that the rain does fall upon the next land, he must construct, at his own expense, an eaves-trough. The owner of trees standing at the edge of another's cultivated land must cut them down, if they exceed 7 or 8 feet in height. Such trees are termed "nuisances," and their cutting down, "shade-cutting." In Naka *kori*, the distance between two houses must be at least 2 feet, each being 1 foot from the line. Overlooking windows may not be constructed in dwellings; but there is no restriction as to storehouses.

SANYODO. In Bigo *kuni*, Fukatsu *kori*, overlooking adjacent premises from a window on a second story is not allowed, and a shutter must be constructed. In Bichu *kuni*, Kuboya *kori*, houses must stand 1½ feet apart. If a clothes-drying platform is to be built on the roof, notice must first be given to adjacent owners. When cultivated land is turned into residence-land, the permission of the feudal official must be obtained, and no high tree can be planted so as to cut off the sun-light from adjacent cultivated land. In Mitsuki *kori*, in building a house, the ordinary petition and plan must be filed; after inspection by the village officer and

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1. In honor of one who has passed away.

by the neighbors, and after consent obtained of both, the house may be built, and no objections will thereafter be entertained.

In Aki *kuni*, Numata and Aki *kori*, the permission of the feudal official must be obtained before building a town house, except in the case of outbuildings less than 8 feet in height. If the structure is not built according to the plan as authorized, it is torn down. Overlooking or shedding rain upon adjoining premises is forbidden by custom. A house near cultivated land in a village must stand back 8 feet; no fence higher than 8 feet and no tall tree may be put near cultivated land.

In Suwo *kuni*, Yoshihiki *kori*, in towns, the distance between two houses must be the length of a tile, that is, 1½ feet. Overlooking windows are forbidden, as well as overlooking second stories. In Kyuka *kori*, houses must stand 2 feet from each other, in order that the rain may not be shed on the adjoining premises. Houses may not be built in a district devoted to cultivation, unless for special reasons, and then not nearer than 48 feet to the adjacent cultivated land. Moreover, the covering of the roof with tiles is forbidden, reeds alone being permissible for this purpose.[1] In Tsuno *kori*, the permission of the deputy must be obtained before building a house on cultivated land, because a law forbids the erection of houses on rice-land, except where the lack of rain or the cutting off of irrigation channels has rendered the land unavailable for rice.

In Nagato *kuni*, Amu *kori*, overlooking windows in dwellings are forbidden. But in storehouses they may be as numerous as one pleases.

NANKAIDO. In Awa *kuni*, Nabigashi *kori*, in towns, a house may if necessary be built as near as 1 foot from the next house. Overlooking windows are prohibited, except

1. The object of this regulation does not appear, unless it be the discouragement of expensive structures.

when specially necessary, and even then they must be screened. In villages, every house needs an adjacent space[1] in which to dry grain and other things; and when one plans building a house, the neighbor comes and consults about placing it so as not to cut off the sunlight from the drying-ground. Usually some arrangement is reached by mutual consent.

In Iyo *kuni*, Uwa *kori*, the shedding of rain on adjoining land is forbidden, but this rule does not apply in the case of a low lean-to.

SAIKAIDO. In Chikuzen *kuni*, Sawara and Naka *kori*, when a bamboo grove adjoins cultivated land, the overhanging trees must be cut down, a pole being erected to determine whether the tree overhangs; where the grove is at the foot of a hill, the trees are cut down for a distance of 48 feet from the foot of the hill.

In Chikugo *kuni*, Yamato *kori*, in towns, houses may stand close up to the highway line; but the space between two houses must be 1½ feet. In villages, the space must be such that rain is not shed by either on the adjoining premises. When cultivated land lies to the north or west of a house-site, the house must stand 9 feet from the line; if to the south or east, 8 feet; the object of the rule is to prevent the obstruction of sunlight.

In Buzen *kuni*, Kiku *kori*, the shedding of rain on adjacent premises is forbidden by custom, unless the structure is only a low lean-to. Overlooking windows must be guarded by screens, unless the neighbor gives a dispensation. But if the neighbor removes and a stranger takes his house, the latter may require a screen to be placed, notwithstanding the agreement by his predecessor. If a tree grows so as to overshadow adjoining land, it must be lopped. The trees of a forest at the foot of a hill must be cut down for a distance of 18 feet from the foot of the

1. *Hoshi* (drying)-*ba* (place).

hill; but the *utsugi*,[1] no matter how great its growth, has always been left untouched. In Shimoge *kori*, the boundary space for houses is 3 feet. Trees growing so large as to overshadow adjoining premises are cut down to about 6 feet high. In Usa *kori*, the boundary space must be such as to prevent the shedding of rain on adjoining premises. There is an instance in old times of a dispute about a boundary, which was determined by letting down a leaden plummet from the extremity of the eaves. When a tree grows so as to injure adjoining cultivated land by its shade, it is lopped, the measurement being made by the pole-erecting method above described.

In Hizen *kuni*, Fukaku *kori*, trees must in villages be placed 3 feet from the adjoining boundary. If a tree grows so as to overshadow cultivated land, and the neighbor petitions for redress, the branches must be lopped, under the inspection of the headman.

In Hyuga *kuni*, Miyazaki and Koyu *kori*, when a tree stands close to cultivated land in a village, it is customary to lop its branches every two or three years, under the inspection of the village officers, measuring the overhanging portion by the pole-erecting method. In Usuki *kori*, trees planted near cultivated land must stand 3 feet back from the boundary. If they grow so as to injure the adjoining land, the owner of the latter makes petition, on the ground of "obstruction to cultivation,"[2] and the feudal official orders the lopping of the branches.

3.—SUNDRY SERVITUDES.

KINAI. In Idzumi *kuni*, Otori *kori*, [in towns], where a plot of "pouch-land"[3] exists, a passage must be made by which the occupant can have egress to the main street. The ward-officials always see to it, when such a plot is trans-

1. *Deutzia scabra*. 2. *Saku-sawari*. 3. *Fukuro-chi*, a plot shut off by other land from access to the streets.

ferred, that the passage is not closed, for otherwise the buyer would find himself in a dilemma and [indirectly] the community would be a sufferer. The closing of such outlets has for generations been the subject of a prohibition, and the rule is still strictly observed by all.

TOKAIDO. In Kai *kuni*, Yamanashi *kori*, where there is on A's land a well which B has a [prescriptive] right to use, B may pass over the land of A to reach the well; but B must repair an injury caused by him to the road, and must replace any well implement lost or injured.

In Sagami *kuni*, Ashigara *kori*, where land is by reason of its natural position subjected to some burden, such as the reception of filthy waters flowing from higher land to land below, the condition of things existing from ancient times is strictly observed, and no alteration is made. But as to artificial[1] burdens the matter rests entirely on mutual agreement.

TOSANDO. In Shinano *kuni*, Tokai *kori*, there are certain limitations on the rights of a land-owner. For example, where A is an upper owner and B a lower, and continual rains cause a flow of water down over the land of B, he cannot object to this, as the upper owner has a right to have the water pass off thus. Where a well or stream is at the boundary between two estates, each owner must so use it as not to injure the other. Those who use the water of a stream in the upper portion must not so foul it as to injure those who use it below. In Minochi *kori*, where a common-pasture[2] or a spring is situated in village A, but villages B and C are by custom entitled to use the water or to cut the grass, village A has a right to fix a time for the exercise of these rights each year, and the others must abide by this restriction.

In Rikuzen *kuni*, Toda *kori*, a well used by a number of persons in common must be repaired at the common

1. *Jinko.* 2. *Magusa-ba.*

expense. Those who thus come in from other land to make use of the well need not pay any rent for the passage over the land where the well is situated.

In Uzen *kuni*, Okitama *kori*, those who use the water of a stream in its upper portion must not foul it. Where A and B have equal rights to the use of the water of an irrigation aqueduct, A being the upper owner, A must not foul the water or stop its flow or erect a mill without the consent of B. Nor must he so obstruct the stream as to flow the land of A to the latter's injury. Where A's land is so situated [in a town] that he cannot reach the highway without passing over the land of B, B must allow A to pass over his land, without charging any rent. But A must keep the passage in repair.

HOKUROKUDO. In Kaga *kuni*, Ishikawa *kori*, [in towns] where A's house is so situated that the family must walk over B's land in order to reach the highway, A need not pay any rent, but must keep the passage in repair and free from obstruction. In Yenuma *kori*, where the owner of rice-land intends to erect a dike to keep out water, the adjacent owners may object, if its erection would injure them. In Kawakita *kori*, where the source of a stream used for irrigation by village B lies in village A, the former hires the land of village A where the stream passes, paying the taxes and sundry charges. Sometimes, however, village A presents the land to village B, and the latter presents another piece in exchange to the former, the title being transferred in each case. But whatever method is adopted, village B alone has the obligation of keeping the channel in repair. Where a well on the land of A is used also by B, who has no well, the expense of repairing it must be borne jointly.

In Echu *kuni*, Imizu *kori*, the lower owner must receive the water flowing from the land of owners above; nor can he erect an embankment to set back the water upon the upper land. On the other hand the upper owner must

not make a channel which sheds upon the lower land water which would not otherwise have gone there.

In Echigo *kuni*, Kambara *kori*, where there are 8 plots of land, each (for instance) 10 *ken* in length,[1] and two of them, B and C, are "pouch-land," B has a right to pass out to the highway over A's plot, and C over both B's and A's; B pays a rent to A, and C to B, but not C to A.

In Sado *kuni*, Sawata *kori*, there is a town district named Aikawa, built upon the slope and at the foot of a steep hill; and each house is obliged to allow the passage through its premises of the sewage from houses above. But for constructing a new drain a consultation and the consent of all parties interested is necessary. If a dispute arises as to whether a particular drain is an ancient one, resort is had for settlement to the land-register.

SANINDO. In Idzumo *kuni*, Shimane *kori*, where A's land is so situated that he cannot reach the highway without passing over B's land, A has the right to do so, but must pay a rent to B or else give him a piece of land as compensation.

SANYODO. In Bizen *kuni*, Kamimichi *kori*, where the residents of plot B are accustomed to use a drain or take water from a well in plot A, they must pay a compensation for the use of the drain or the passage over the land. Those on plot A must not close the drain to the injury of the others, nor refuse to permit their passage.

In Suwo *kuni*, Kyuka *kori*, where those living on plot B are accustomed to use a well on plot A, the owner of A must not close the passage used by those from plot B. But if its use reduces the value of plot A, the latter must pay half the loss. Where B cannot reach the highway without passing over A's land, A must not close the passage to B; but the expense of maintaining it must be borne by both in equal shares.

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1. One *ken*=about 6 feet.

NANKAIDO. In Awaji *kuni*, Tsuna *kori*, where there are three or four villages, one above the other, the lower villages are bound to receive the rain-water or river-water which flows down from the upper villages; while the latter, on the other hand, are bound not to foul it to the injury of the former.

In Awa *kuni*, Miyoshi *kori*, on hill sides there are often so-called "stair-fields."[1] The plots are situated on a number of different levels, each one rising above the other like steps of a staircase. The plots are owned by various persons, the boundary between one plot and the next higher one being the farthest point on the bank to which the lower owner can reach with his sickle and cut the grass. The upper owner is bound to remove all trees and grass growing on the bank down to the boundary, in order that the lower land may not be injured thereby. This is known as "shade-cutting."

SAIKAIDO. In Chikugo *kuni*, Mitsuma *kori*, where A cannot reach the highway without passing over B's land, B must not obstruct his passage, but may claim rent from A.

In Hizen *kuni*, Matsura *kori*, where a strip of sloping bank lies between adjacent plots, one of which is higher than the other, the bank is regarded as belonging to the lower owner.[2]

In Satsuma *kuni*, Satsuma *kori*, the slope of a bank of this sort belongs to the upper owner, unless the parties agree otherwise. But in the latter case the lower owner is bound not to alter the bank in such a way as to deprive the upper plot of its support.

4.—USUFRUCT.[3]

Cases where one receives the income of land without having the ownership are rare. There is a so-called

1. *Hashigo-dempata.* 2. So as to give him the control and enable him to prevent the injury referred to under Awa *kuni*, *supra*. 3. *Nyu* (enter, come to hand, receive)-*kwaku* (amount) *shotoku*

"retirement exemption,"[1] by which the father, who on retirement from the headship gives the patrimony to his son, receives for his own use the profits of a certain portion of the land. This right lasts during the father's lifetime. But there is no procedure in the nature of a public sanction, the matter being usually arranged between father and son; so that no general statements can be made in regard to it.[2]

5.—TEMPLE ENDOWMENTS.[3]

KINAI. In Settsu *kuni*, Higashinari *kori*, when land is given to a temple for supplying the expense of a celebration or of prayers or offerings for the dead, villagers, known as "managing-representatives,"[4] take charge of the property, collecting the profits and paying the rice-tax and sundry charges; so that the priests have not the complete property[5] in the land.

TOKAIDO. In Kai *kuni*, Koma *kori*, land donated by the Takeda family[6] is termed "blackseal land;"[7] by the Tokugawa family, "red-seal land."[8] Donations were also received from various other *daimyo*. Since the period Kwambun (1661-1673) cultivated and other lands belonging to farmers have been contributed to temples.[9] No taxes

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(acquisition). In the new Codes *yo* (use)-*yeki* (profits, fruits) is the term for the right technically known as "usufruct." 1. *Inkyo-men.* 2. But much might have been learned. The next section belongs perhaps under this head. 3. *Kifu* (grant, endow)-*chi.* 4. *Sewakata-sodai.* 5. *Shoyu-sensai.* 6. One of the most powerful families of the Middle Ages, whose most famous chief was Takeda Shingen. 7. *Koku-in-chi.* 8. *Shu-in-chi*, a seal customarily used by the Shogun in granting tax-free lands. 9. No reference to an edict of that date can be found. It seems as though a negative may have been here omitted, for elsewhere there had been prohibitions against temple-donations. See Chapter I., Kaga *kuni*, *supra*. But it may have been that the prohibitions of the Middle Ages against such donations had continued in force in Kai until the above period.

are imposed on black-seal or red-seal donations. But farmers' donations had to pay a portion of the produce as a tax.

TOSANDO. In Shinano *kuni*, Takai *kori*, temples are not permitted to pledge or hypothecate their endowed lands, whether contributed by the feudal lord or by farmers, though they have full right to the produce. Land given to a Shinto temple is termed "perpetual celebration fund;"[1] to a Buddhist temple, "perpetual tablet fund;"[2] in all cases, it is given forever, not for a term. Those who take cultivated or residence land in pledge or hypothec from temples are by an old law punishable,[3] even though the transaction be not a secret one. In Saku *kori*, donated land is controlled by the temple, and the donor has no interest in it. But the temple cannot dispose of it at pleasure.[4] In Ogata *kori*, the name of the temple is substituted in the title-deed for that of the former owner of the land, but the latter is written alongside in the document. In Hanu *kori*, the managing priest of the temple gives the donor a document acknowledging the gift. But the ownership[5] remains in the donor as before, the temple having only the usufruct.

In Rikuzen *kuni*, Toda *kori*, when donations are made, a transfer[6] may be recorded (in which case the temple pays the rice tax and sundry charges) or may not be recorded (in which case the donor continues to pay them), the latter being more common, and no document being needed in that case. (Since the Restoration, lands of the former sort have been regarded as belonging to the temple; of the latter, to the donor).

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1. *Eitai-saiten-ryo.* 2. *Eitai-ihai* (a wooden or metal tablet; usually in the shape of a grave-stone, inscribed with the name of one for whom prayers are to be offered)-*ryo.* 3. III Gembun (1738). See Rudorff, *Tokugawa Gesetzsammlung*, p. 55. 4. Lit., make free with (*jiyu ni suru*). See the law *supra.* 5. *Shayuken.* 6. *Takanuki* (striking out the assessment-entry).

In Uzen *kuni*, Okitama *kori*, in donations to temples, sometimes the ownership is transferred, sometimes only the usufruct. The former is the general practice.

In Ugo *kuni*, Hiraga *kori*, in donations to Buddhist temples, a document is made out, certifying that the land is given to the temple forever, and officially sealed by the headman, and is given to the temple, the transfer [1] being noted in the register. Land so given comes into the ownership of the temple in question.

Hokurokudo. In Kaga *kuni*, Ishikawa *kori*, when garden-land [2] or a building-plot [2] is donated to a Buddhist temple, the taxes are paid by the ward or village, and the priests have no power to dispose of it. Sometimes a small amount of cultivated land is given, being known as "Buddha consecrated-land" and subject to the above conditions. No document is necessary.

In Echigo *kuni*, Uwonuma *kori*, donation to a temple is accomplished by noting the transfer [1] in the register at the village office and delivering the land fo the temple, with a donation deed having the counterseal of the donor's relatives and the official seal of the headman. The temple thereafter pays taxes and incidental charges. Sometimes the donor, without delivering possession of the land, endows the temple with the annual profits of the land; [4] this is called "income-donation," [5] and the headman never puts his official seal upon such a deed.

Sanindo. In Iwami *kuni*, Naka *kori*, the managing priest pays the rice-tax and sundry charges on donated land; but may not sell or pledge it at will. The profits are applied to the maintenance of the temple-structure; the surplus, if any, goes to the priests themselves.

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1. *Takanuki*. The *nuki* (strike out probably refers to the striking out from the list of taxable land. The plot would of course be entered in the register in the proper place as owned by the temple. 2. *Niwachi*. 3. *Shiki-chi*. 4. *Tokumai*. 5. *Kifu-mai*.

In Idzumo *kuni*, Kamikado *kori*, when land is donated to the Great Temple,[1] the lords of the fief[2] (Chijima and Kitajima families) have control[3] of it; if it is given to a local temple,[4] the parishioners.[5] In either case the profits are accumulated and devoted to the maintenance of the buildings. In Shimane *kori*, in Shinto temples, the profits of donated land are in most cases donated to the maintenance of the buildings, under the supervision of a manager,[6] and the priests may not make free with them. But in the case of Buddhist temples, the priests collect the profits and apply them as they please; however, they may not pledge or sell the land at will.

SANYODO. In Mimasaka *kuni*, Shonan *kori*, the priests manage[7] donated land themselves, paying the rice-tax and sundry charges and keeping the remainder; but they may not pledge or sell the land.

In Suwo *kuni*, Yoshihiki *kori*, land donated to a Shinto temple is cultivated by the neighboring farmers and the profits are applied to the maintenance of the buildings; so that the land is not at the free disposal of the priests. The profits, however, of land donated to a Buddhist temple may be taken by the priests; but they cannot dispose of the land itself by hypothecating or pledging or selling it.

NANKAIDO. In Awaji *kuni*, Tsuna *kori*, donated land is used for the expense of a perpetual light in the temple or for offerings to the deity; and the donor inscribes on the deed the name of the temple and the fact that the right of mortgage and sale is given. Still it sometimes occurs that the land is restored to the donor, after mutual deliberation, if it appears that he is in distressed circumstances.

In Tosa *kuni*, Kochi *kori*, the donor of temple-land has the right to take it back, if he falls into need.

1. *Taisha*,—one of the two chief national Shinto temples. 2. *Kuni-tsuko*,—an old word first used more than a thousand years ago. At that time it signified a free land-owner. See Simmons' "Notes on Land Tenure, etc.," pp. 65,246. 3. *Shihai*. 4. *Ujigami*. 5. *Ujiko*. 6. *Shihai-nin*. 7. *Tori-atsukai*.

SAIKAIDO. In Chikugo *kuni*, Mitsuma *kori*, in donations of land to temples, sometimes the ownership of the land is given, sometimes only the right of receiving the income from it, and there is no regular practice; but it is usual to prescribe that the profits shall be applied chiefly to the general expenses of the temple and not to the personal expenses of the priests.

6.—FORESTS.[1]

KINAI. In Yamato *kuni*, Yoshino *kori*, some of the farmers of the middle and higher classes own forest-land several tens of *cho*[2] in area. They sell the standing wood[3] to commercial houses in Osaka, Sakai, and elsewhere. These houses often furnish saplings of cryptomeria[4] or cypress,[5] which the land-owners plant and care for, and the matured trees after 30, 50, or even 100 years, are sold as directed by the commercial houses, the land-owners receiving for themselves five-tenths of the proceeds of the sale. Several saplings are originally planted in each *tsubo*[6] of land, and these as they grow are cut from time to time, so that finally only one tree remains in perhaps several *tsubo*, at the end of 40 or 50 years. These are the perquisites of the land-owner. When the whole forest is denuded by the tree-buyers, the land must of course be restored to the owners, who are called "forest-keepers."[7] The land-tax is paid by the land-owners, not the tree-buyers.

TOKAIDO. In Ise *kuni*, Wataraye *kori*, timber in forests belonging to individuals or to a village may be disposed of by its owner at pleasure. Forests owned by the assembly office for civil affairs of the Sacred Domain (the headquarters being at the temple-sites of Uji and Yamada) may be used for wood or grass by the people

1. *Rimboku*. 2. About 2½ acres. 3. *Tachi-ki*. 4. *Sugi* (*Cryptomeria japonica*). 5. *Hinoki* (*Retinispora obtusa*). 6. An area abou six feet square. 7. *Yama-ban*.

of the neighborhood without any charge; but as no large timber is allowed to be cut, the rule is that a sickle may be carried by those who enter, but not a saw. But in the forests adjacent to the two temples themselves not even a fallen leaf may be picked up.

In Totomi *kuni*, Sano *kori*, any one may enter a forest belonging to his village and cut grass; cutting with a sickle in a forest is permissible, but not such cutting as is done with a saw, because the timber is used by the village, after due consultation, for the payment of village expenses and for the repair of river-banks.

In Kai *kuni*, Koma *kori*, forests are owned by villages or by individuals. In the former case the forest is kept standing as a protection against gales or for use in some extraordinary need. A sale is made after a consultation of all the villagers.

In Idzu *kuni*, Takata *kori*, forests belonging to an individual are called "private forests,"[1] and the owner can dispose of the timber as he pleases. Forests belonging in common to a number of villages[2] are called "deep-water forests" and cannot be sold.

In Rikuzen *kuni*, Toda *kori*, there are several sorts of forest-land. One is known as "land-appurtenant forest;"[3] it is owned by the feudal lord, and no taxes are imposed on it; but the villages are allowed freely to make use of it. (Since the Restoration these have gradually been sold and have come into the hands of the rich [land-owners], who themselves take all the timber and grass and allow no one else to do so). Another sort is known as "waste-place."[4] There is here a great deal of grass-land. No taxes are imposed, but the villages pay something for the privilege of taking the profits. The amount was proportioned to the assessed production of the village;[5] and when a villager

1. *Uchiyama*. 2. *Iriai mura-uchi*. 3. *Ji-zuki-yama*; the connection is not apparent. 4. *Are-ba*. 5. "This corresponds to the present district-tax (*ku-hi*)," the author adds in a note.

cut timber or mowed grass he paid a certain sum to the village. Another sort is know as "long-lease forest;"[1] this is owned by the feudal lord, but the use of it is given to private persons on payment of a fee, and they may cut timber or mow grass as they please. There are also private forests; but even in these there are certain trees which may not be cut by the owner without permission from the feudal office; these are pine,[2] cryptomeria,[3] cypress,[4] elm,[5] *katsura*,[6] pagoda-tree,[7] *shioji*,[8] camphor,[9] *ran*,[10] maple,[11] apricot,[12] white mulberry,[13] and others. The petition for permission to cut must go to the feudal deputy;[14] but if more than 30 trees of a size greater than 8 feet in circumference are to be cut, the petition must go to the magistrate[15] through the deputy. There is also a sort of forest known as "official tax forest."[16] In former times no tax was imposed, though the land was owned by individuals; afterwards taxes were imposed, and since then the owner may cut timber as he pleases. The taxes are estimated as follows. The feudal official takes, say, an area of 1 *chō*,[17] and reckons that the trees of 1 *tan* will be cut in the first year, estimating 10 years as the time required for a new growth on that spot; then the value of the timber from 1 *tan* is reckoned, the expense of carriage, etc., subtracted,

1. I (stay)-*ku* (long time)-*ne* (root, tree). The above is the most plausible signification. 2. *Matsu*. The word "pine," though not strictly accurate, will be used for *matsu*. A variety, *himematsu*, apparently *Pinus paroiflore*, is also named in the text. 3. *Sugi*. 4. *Hinoki*. This is *Retinispora obtusa*. The *Sawara* (*Retinispora pisifera*) is also named, and a variety, *sawara sei*, which Rein does not mention. For all these trees, cf. Rein, vol. II. 5. *Keyaki*. 6. *Cercidiphyllum japonicum*. 7. *Yenju* (*Sophora japonica*). 8. *Calopanax ricinifolia*. 9. *Kusunoki*. 10. Rein does not give this. 11. *Momiji*. 12. *Mume*, commonly called "plum" by foreigners in Japan. 13. *Kuwa*. 14. *Daikwan*. 15. *Bugyo*, probably the *kori-bugyo*, who managed all the affairs of a large district. 16. *Go-nengu-yama*, now called *zei-yama*. 17. 1 *cho*=about 2½ acres, 1 *cho*=10 *tan*.

and the probable net proceeds ascertained. Four-tenths of this are to be paid in taxes; the rest the owner takes. In the second year, the process is repeated for another *tan* of area; and so on, until after 10 years the tax is again assessed on the first *tan*. Forests owned by a whole village are exempt from taxation, and may be cut without restriction. Usually the trees are cut and sold by the village itself, and the proceeds divided among the villagers equally. Ordinary trees [not having a salable value] are cut and divided equally among the villagers. Forests of the feudal lord are managed by forest-officials; and no one may cut the timber except when it is sold by the lord. There is a sort of forest known as "possession-forest," [1] exempt from taxes and managed by the villages. Each villager contributes, according to his assessed production, to the expense of taking care it of. (After the Restoration, the land was planted with trees and given to the feudal office, which appointed a forest-keeper; [2] so that the forest has come entirely into the hands of feudal officials and the people have no rights in it).[3]

In Uzen *kuni*, Okitama *kori*, one who cuts timber on a mountain has the right to get it to the foot, even though he passes over others' land in so doing and injures their trees.

In Ugo *kuni*, Akita *kori*, the owner of forest-land may cut timber as he pleases, except that permission must be obtained from the forest-superintendent [4] before cutting cryptomeria or cypress.[5] If more than 100 of these sorts are to be cut, the preliminary inspection of the land is made by the forest-superintendent himself; if less, by a keeper.[6] In the former case, 3 out of every 100 (called the "official-

1. *Shoji-yama.* 2. *Yamamori.* 3. This passage must have been written early in the seventies or in forgetfulness of the changes by which, in August, 1871, the *han*, or clan-fiefs, became *ken* or prefectures under the Central Government. But perhaps in these western mountain districts, the word *han* still lingered when Mr. Ikuta visited them, and was applied to the prefectural authorities. 4. *Bokuzan-kata.* 5. *Hinoki.* 6. *Yamamori.*

percentage"[1]) are to be given to the feudal lord; but these the owner then proceeds to buy back. There is no fixed percentage where less than 100 are cut; nor is there any in case of pine timber, which, by the way, is also not to be cut without permission.

HOKUROKUDO. In Kaga *kuni*, Ishikawa *kori*, a law of the fief requires that permission must be obtained in order to cut down any of the so-called "seven timbers" (pine, cryptomeria, oak,[2] paulownia,[3] elm,[4] cypress, and fir[5]), whether owned by an individual or by the village in common. The mountain pines are ranked with the forests belonging to the fief and are forbidden to be cut. Ordinary trees owned by the village in common, such as those planted to prevent snow-slides on a mountain side or to keep off the wind or to protect against storms from the ocean (all these are known as "shelter from calamities"), may be cut down, but not wantonly. In Nomi *kori*, one may have the right of possession of another person's forest-land, and may sub-let it for a period not longer than the lessor's own term, but notice must first be given to the owner.

In Noto *kuni*, Hoshi *kori*, forests along the sea shore are called "fish-touching forests,"[6] and the owner is under an obligation not to cut them down. If such land belongs to another village than that in which it is situated, the latter pays a rent to the former to secure its preservation. In Suzu *kori*, the so-called "seven timbers" (pine, cryptomeria, elm, fir, oak, paulownia,—these, when greater in circumfer-

1. *O-wariai*. 2. *Kashi*. 3. *Kiri*. 4. *Tsuki* (same as *keyaki*). 5. *Toga* (same as *tsuga*); *Abies tsuga*. 6. *Uwo-tsuki-sanrin*. The reference is to the protection which these forests were intended to give against ocean storms (see the preceding paragraph). *Tsuki* is prolific in idiomatic uses; but the idea is possibly that the fish almost "stick to" (this is an admissible meaning) the trees when dashed against them by the waves. Observe that in the Japanese thought "fish" is the active subject, "touch" the verb denoting its action; the "*tsuki*" is not predicated of the forest, but of the fish.

ence than 1 foot—and chestnut[1] —when greater than 5 feet) may not be cut down, even on private land, unless permission is received from the feudal official to do so on the ground that one cannot otherwise pay his taxes.

In Echu *kuni*, Nei *kori*, timber belonging to a Shinto temple may be cut down by the village, on consultation with the temple-chief, and is regarded as a common possession of the village.

In Echigo *kuni*, Uwonuma *kori*, timber belonging to the temple of the local deity cannot be cut except upon a consultation of the whole village, and it is the custom to apply the timber or its proceeds to the use of the temple.

SANINDO. In Idzumo *kuni*, Shimane *kori*, where a forest is owned by a village in common, the timber is used for the repair of aqueducts, dams, roads, and bridges; but sometimes it is sold and the proceeds used to help out the village expenses. Forests owned by individuals may be cut by them as they please.

In Iwami *kuni*, Naka *kori*, when pine timber is cut, even in private forests, one-tenth of the value must be given to the feudal lord.

In Bizen *kuni*, Kamimichi *kori*, even in private forests the inspection and permission of the chief headman must first be asked before timber can be cut; but in any case a law prohibits a complete destruction of timber, requiring a certain number of trees per *tsubo* to be reserved.

In Suwo *kuni*, Yoshihiki *kori*, one may obtain permission from the feudal lord, on payment of a small tax, to occupy forest-land of the lord and take all the profits issuing therefrom. Such land is called "officially-loaned forest land."[2]

In Suwo *kuni*, Kyuka *kori*, the individual owners of a private forest mark the boundaries of their portions by stones or trees; and such boundary trees no one may cut. But

1. *Kuri.* 2. *O-azuke-yama.*

even in private forests the feudal official seals certain of the largest useful trees, such as camphor, pine, cypress and cryptomeria, [thus prohibiting their destruction without permission].

In Nagato *kuni*, Amu *kori*, there are in every village two or three forests to supply wood for river-bank palisades, heavy beams, bamboo dike-frames, river-depth indicators, wells, aqueducts, dams, and other useful purposes. These places are called "public-works forests;" and whenever there is to be a timber-felling, the village first obtains permission from the feudal official. There are also places called "loss-compensating forests" the common property of of the village. These are places reserved for relief on occasions of special expense in a village undertaking, or of general distress among the people. For cutting these as well as private forests the permission of the feudal office must first be obtained. In Toyoda *kori*, the best tree in every forest, whether owned by an individual or owned in common by a village, is selected by the feudal official and entered in an official book.[1] This tree is called "book-tree"[2] and cannot be cut down. If, however, it it is required for some public purpose, such as the repair of a bridge, the next best tree is selected and entered instead in the book.

NANKAIDO. In Awa *kuni*, Mima *kori*, headmen, country *samurai*,[3] and others owning large forests often make a profit by selling the timber to those whose business it is to deal with timber or woods. The transaction differs in different cases. When timber for clogs[4] is sold, the price is fixed according to the size of the ravine where the trees stand; the timber is then cut and taken down to the towns. When the timber is intended for charcoal, the price is determined in the same way, but the charcoal is made on the spot. When bird-lime[5] material is sold, it is taken

1. *Chobo.* 2. *Cho-boku.* 3. *Kyo-shi* (the same as *goshi*). 4. *Geta.* 5. *Mochi*,—made probably from the *Ilex integra (mochi no ki)*.

from the standing trees, and the price is fixed by the number of tubfuls taken. When firewood is sold, the trees are cut into lengths of 3 feet 5 or 6 inches,[1] and these are heaped in piles (called *hiro*),[2] measuring 6 feet in height and in thickness; the price is fixed by the number of *hiro*. When timber is sold for trays, cups, and other woodenware the artisans (called "wood-workers") take their families to the forest, build huts, and stay there [during the season,] moving about from place to place. A tax is due from them once in 3 or 4 years; and the number of children in a family is taken into account in computing the tax. In Miyoshi *kori*, there is an officer called "floating-timber[3] officer." When logs which are being floated down a stream are dispersed by a storm or flood, the officer goes about examining the river-banks and collects all floating-timber, whether bearing the owner's mark[4] or not, despositing it with the village officers and taking a deposit-receipt. Subsequently he restores the marked timber to its owners, and holds a secret-ticket auction[5] of the remainder, the proceeds being paid in to the feudal official and laid aside for an occasion of great need. When the finder[6] of floating timber restores it to the owner, the latter is obliged by law to give him a reasonable fee as a reward for finding.

In Tosa *kuni*, Kochi *kori*, private forests are of various sorts,—"local forest"[7] (owned by a village in common), "home-forest"[8] (owned by an individual), and "cleared-upland"[9] (sometimes called "cleared and changed upland"[10]). Some of them extend over a whole ravine, others over several *cho*. In the third kind mentioned, the timber is used for firewood or charcoal, and the land, after being

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1. The Japanese foot has 10 inches. 2. This is written in the *kana*. 3. *Ryu-boku*. 4. *Koku-in*. 5. See Part II, "Sales." 6. *Hiroi-nin*. 7. *Tokoro-bayashi*. 8. *Ya-gakari* (family-managed). 9. *Kiri-batake*. 10. *Kiri-kaye batake*. For the explanation, see the next lines.

cleared of undergrowth and grass, is planted with millet,[1] pulse,[2] and soy-bean.[3] This is called "rotation clearing;"[4] for a portion is cleared at a time, the whole being finished in from 16 to 20 years, and by that time a new growth is ready for cutting in the portion first cleared. When the "cleared upland" plot is as large as 1 *tan*, a tax of 2 *sho* of rice is imposed. The timber of the forests of the feudal lord is sold sometimes on petition from an intending buyer, sometimes (in the case of cypress and cryptomeria) by secret-ticket auction. There are two methods of sale; in one (known as "forest-product"[5]) the number of trees is not counted, the purchase being made by the surface-area; in the other (known as "cutting the standing timber"[6]) a count is made of the trees over a certain size and a price fixed on this basis. In the former case, the bargain is made with the feudal official and he gives a certificate to the buyer, who usually goes to the Osaka wholesale houses and raises money on it.[7] The term during which the timber is to be cleared is usually 10 years, but to this, if necessary, a second term of 9 years is added, and a third of 8 years, the whole thus reaching 27 years. The buyer usually counts on taking the whole term for the clearing. The forest is usually marked off into 3 parts, the lowest being cleared first. The price is paid in two instalments; in a 1000 *yen*[8] purchase, for instance, 400 down and 600 at a later time. In the "standing-timber" sale, the term for cutting depends upon the number of trees sold.

SAIKAIDO. In Chikugo *kuni*, Miike *kori*, the permission of the feudal officials is necessary before cutting down trees more than 5 feet in circumference, even in private forests.

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1. *Hiye;* for the exact significance as regards varieties, see Rein, vol. II., s. v. 2. *Mame.* 3. *Daizu;* a variety of *mame.* 4. *Mawari-kiri.* 5. *Yama-shidashi*; this is the most probable meaning. 6. *Tachi-kigiri.* 7. Apparently to pay for the timber. 8. The author sometimes uses *yen* where he ought to have used *ryo*, the old unit; *yen* were not coined till 1871.

In Hizen *kuni*, Saga *kori*, camphor trees, whether large or small, may not be cut down without permission of the feudal office.

In Higo *kuni*, Aso *kori*, there are four kinds of forest-land,—"official forest,"[1] "public forest,"[2] "common forest,"[3] and "private forest."[4] The people of the locality take care of the official forests, so that any one who has a ticket may enter and cut ordinary trees for fuel,—but not cryptomeria nor cypress. A public forest belongs to the fief, but as it has been planted by the people of the locality, the trees or the profits from them are used for the repair of important temples, official buildings, dikes and bridges, or for occasional relief in case of calamity by fire or flood. In all these cases the officers of the ward or village consult with the superintendents of the forest,[5] and obtain permission of the district-deputy[6] before cutting. In the case of common forests of a ward or village, the ward or village officers, after holding deliberation and obtaining permission from the forest-superintendent, cut down the timber and apply the proceeds to the general expenses of the ward or village. Private forests may be cut at pleasure by the owner, except the trees on the boundary between private and official forests. But even in private or common forests useful trees, such as elm, oak, camphor, chestnut, *tochi*,[7] or paulownia, of more than 6 feet in circumference, are entered in a forest-register,[8] and cannot be cut without good reason. In Kyuma *kori*, persons sometimes make a plantation of cryptomeria or cypress in the waste demesne lands open to them; and the custom is for half the trees, when grown, to go to the lord and half to the planter. This is called "five-parts planting."[9] In Amakusa *kori*, no tax is imposed on "public forests"[10] or

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1. *Kwan-zan.* 2. *Ko-zan.* 3. *Kyu-zan.* 4. *Shiyu-zan.* 5. *Yama-shikai-yaku.* 6. *Gundai.* 7. *Aesculus tubinata.* 8. *Yama-ne-cho.* 9. *Gobu-sashi*; that is, five in ten. 10. *Ko-zan*; see *supra*.

private forests. But when timber is sold, the buyer must pay a fee of one-tenth of the price to the shipping-master (who is one of the forestry staff), and of this amount the latter sends seven-tenths to the feudal treasury, keeping the remainder by way of salary and also paying the expense of forwarding the lord's share to the treasury.

In Osumi *kuni*, Aira *kori*, it is necessary, in case of trees applicable to the lord's use, such as elm, camphor, oak, cryptomeria, pine, cypress, paulownia and fir, to obtain permission for cutting from the feudal officials, even in case of private forests.

7.—PASTURES.[1]

TOKAIDO. In Kai *kuni*, Yamanashi *kori*, there are various sorts of pasture-land,—"village-owned small-products places,"[2] "individually-owned small-products places,"[3] "wooded wastes," and others. There is also a "common hillside-pasture,"[4] owned by a number of villages in common; those who take grass from this must in all cases pay some tax. There are also pastures [formerly

1. *Ma* (horse)-*gusa* (wild grass)-*ba* (place). *Magusa* is written with one ideograph, and has commonly the derived meaning of "hay." But it must have been formed in the above manner. See Rein, vol. II, 183, for a description. Though "pasture" seems the best word, the animals do not pasture on the land; the fodder is cut and fed to them. 2. *Mura-mochi-ko-mononari-ba;* the *ko* indicates sundry inferior products,—grass, etc. 3. *Ichinin-mochi ko-mononari-ba.* 4. *Sanrin-koya.* Any one who will consult Rein, vol. I, 144, 146, vol. II, 212, 217, will understand how it is that mountain (hill), forest, and pasture are so inextricably mingled in Japanese customs. In *san*-(mountain)-*rin* (forest) and *rinzan* one finds "mountain" and "forest" constantly united in phrase, and the difficulty of rendering into English is only increased when the notion of *magusa* is to be added. It may be sufficient to remember that the Japanese farmer usually thinks of a forest as up on the hill-side or the mountain-side, and of the grass-land as in the same place, and that perhaps the two lie in scattered patches over the

belonging to the Shogunate] (now known as "Old Shogunate wooded land,")[1] where taxes are sometimes paid for the right to cut.

TOSANDO. In Shinano *kuni*, Takai *kori*, the villagers were fomerly bound to clear off, every 4 or 5 years, the land covered with underbrush; this was called "brake-cutting."[2] But now such places are simply burnt over, the proceeding being termed "setting fire."[3] In Minochi *kori*, no villager may enter the pasture until it is opened[4] for the year. The grass matures in the 5th or 6th month, and the villagers hold a meeting[5] and fix a day, which is known as "opening day for the hillside."[6] A pasture common to a number of villages[7] is opened when the order to put in the sickle[8] is given by the managing village[9] or by the proprietor-village.[10] Where the pasture is the property of a single village, the order to cut is given to the villagers by the village officers. At first "morning mowing"[11] alone is permitted (this signifies that the grass may be cut only in the morning and may not be laid out on the spot to dry); after several days "noon-mowing"[12] is allowed, and the villagers may cut at any time of the day and may dry the grass on the land. In Saku *kori*, the open

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same hill-side. Hence a looseness in the use of all three terms. One can merely translate as literally as possible and leave the words to picture the place. But *sanrin* and *rinzan* are always here rendered "forest" or "wood," while *yama* is given its original meaning. It is, however, a question whether the idea of "forest" or "hill" is more prominent in *yama* as used in the following compounds. 4. *Iri* (enter, use)-*ai* (meet, together) *yama magusaba*. *Iriai* has the derived sense of "in common." 1. *Kyu-bakufu rinzan*. 2. *Yabu* (bamboo brake)-*kari*. 3. *Hi-ire*. 4. *Yama-ake*. 5. *Yoriai*. 6. *Yama-biraki-bi*. 7. *Iriai no magusaba*. 8. *Kama-ire*. 9. *Toban-mura*. 10. *Jimoto-mura*. That is, either a number of villages owned the land in common, and each one in turn managed affairs for a year; or else one village, the proprietor of the land, allowed others to use it, and accordingly set the time for entrance. 11. *Asa-kusa kari*. 12. *Hiru-kusa-kari*.

space used as a pasture in common by a number of villages may not be entered [for cutting] by the members of any other village; if a trespasser is found, his sickle and whatever else he carries are taken from him; if he enters with a horse, his horse is taken. No tree may be planted and no cultivation undertaken in a pasture.

In Rikuzen *kuni*, Toda *kori*, pasture-land is called "bare-hillside"[1] or "ravine-land", and no taxes are imposed. Sometimes it is owned in common by a number of villages, sometimes by one only. No special regulations exist in either case, and each one may cut as he pleases. In the latter case, however, a day (called "waste-land opening"[2] or "clover-hillside-opening"[3]) is fixed by the headman for beginning to cut, and notice is given to the villagers. On one sort of pasture a so-called "waste-land service-money"[4] is imposed; the money is paid by the villages sharing the right to cut, and is levied according to the number of horses owned in each.

In Ugo *kuni*, Hiraga *kori*, pasture-land is usually owned by the whole village; and no taxes are imposed on it. There are no regulations as to the day when cutting may begin, nor as to the place where any particular family or other set of persons is to cut. "Balk mowing" (of the grass on the balks between the plots) is permissible only to the owners of the plats. There is also a lowland-pasture (called "grass-producing land,") which may be used only by the owner of the land.

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1. *Su-yama.* 2. *No-biraki.* 3. *Hagi-yama-biraki. Hagi* properly signifies several varieties of the Lespedeza, and not merely the one known as "Japan clover." 4. *No* (waste land)-*te* (hand)-*yaku* (labor-services)-*kin* (money). This was probably a money commutation of labor services due, perhaps, for the clearing of the land. The *te* apparently has the force of "manual labor;" but may mean "incidental." But compare *yama no te* (the region lying near or on the mountains).

SANINDO. In Idzumo *kuni*, Shimane *kori*, in villages, a "waste-hillside tax"[1] must be paid for the privilege of mowing. Until the season arrives no one may enter the land; and the opening day (called "hillside-opening"[2]) is appointed by the village officials and announced to the people 2 or 3 days beforehand, and on the day fixed all the villagers—men, women, and children—go out to the hillside early in the morning and begin to cut. After the season thus opens, each one may cut at his pleasure. In the sea-coast villages they regulate the gathering of sea-plants[3] in the same manner.

SANYODO. In Mimasaka *kuni*, Katsunami *kori*, where pasture-land is owned by a number of villages in common, the members of other villages are strictly fordidden to cut the grass or even to enter the place. The "hillside-opening" takes place on a day [appointed by the village officers and] announced to the people 2 or 3 days beforehand by a written notice; this day usually occurs between the 10th and 15th day after the 88th night after the Spring Equinox. After the opening day, each one may cut as he pleases. Pasture-land owned by a single village is managed in the same way; but if there is a surplus of grass beyond the needs of the villages, it may be sold to members of other villages.

In Bichū *kuni*, Kuboya *kori*, pasture-land is known as "waste-hillside" or "poor-people's-support hillside." The former may be managed jointly by several villages (it is then called "common[4] pasture,") or may belong to a single village only; in either case a portion of it is frequently brought under cultivation or planted with trees. The "poor people's-support hillside" is land occupied by "broken" families, who gain a livelihood by cutting and selling the timber on the hillside. These families formerly owned barren land in the village; not land absolutely waste and

1. *Noyama zei.* 2. *Yama no kuchiake.* 3. *Mo.* Rein does not mention this. 4. *Iriai.*

uncultivated, but land subject to taxation and yet quite unproductive. The owner, falling into distressed circumstances, offered it to others, asking to have it taken off his hands, and no one being willing to take it, it was given by him to the village, and he retired to the hillside and made his living as has been related. Some of these persons have ultimately acquired means again; but as they have once received aid from the village, their rights are inferior and they are not regarded as equals in social intercourse.

In Suwo *kuni*, Tsuno *kori*, pasture-land (or "undergrowth-hillside") is owned either in common by several villages or by one alone. In the former case, those who belong to these villages cut as they please; but no others may enter. In the latter case, there is a similar rule of exclusion; but sometimes another village pays a rent for the privilege of using the pasture; yet even this is only where such a custom has existed since old times.

In Nagato *kuni*, Toyoda *kori*, on the shore of main land and island they gather sea-plants (the phrase being "sea-plant reaping" or "sea-plant collecting,") in the same way that the hillside villages cut the grass in pasture-land.

NANKAIDO. In Awa *kuni*, Mima *kori*, there is a sort of pasture-land known as "reed-place," [1] usually 70 or 80 *cho* in extent, and owned by the village. From this are obtained reeds for thatching; and when one of the villagers wishes to repair or renew his thatch, he notifies the headman, who permits him to cut what is necessary. When it is desired to cut timber from village land, the same procedure is necessary. They sometimes have societies,[2] called "building-societies." [3] When a member of the society is about to repair or to build a house, each of the others gives him 6 bundles of thatch and two of rope.

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1. *Karukayaba.* *Kaya* is a thatch-reed (*Imperata arundinacea*), *karu-kaya* is a variety not mentioned by Rein. 2. *Kumiai.* 3. *Fushin-gumi.*

SAIKAIDO. In Higo *kuni*, Akita *kori*, pasture-land may belong to a single village, and in this case the members of other villages may not enter without permission; or may be used by several in common, the land being owned by a single village; or may be hired by a number of villages from another village, to which rent is paid. But besides this there are other ways of owning pasture-land,—more than there is space to describe.

8.—PONDS AND SWAMPS.

TOSANDO. In Rikuzen *kuni*, Sosa *kori*, swamps are, like rivers, the property of the feudal lord; so that those who wish to fish or hunt game or cut rushes must pay a tax for the privilege. The taxes are paid to certain managers appointed by the village; these turn over the money to the village, and the latter sends it to the feudal office. The profits[1] obtained from the pond or swamp are divided among the villagers.

In Uzen *kuni*, Okitama *kori*, the boundary of a pond or swamp is the line to which the water reaches, but this is considered to include the portion where the rushes grow on the edge. When a pond or swamp lies wholly within the limits of one village, it is the property of that village; but if it lies on the boundary between two villages, it is owned jointly. The use of it, in either case, is open to all members of the village or villages, and not exclusively to the land-owners along the shore.

9.—DRAINS.[2]

KINAI. In Yamato *kuni*, Soyegami *kori*, in towns, the cleaning and repair of drains are performed at the expense

1. *Riyeki*, i. e. the fish, game, etc. The paragraph seems to indicate that the pond or swamp was worked by men employed by the village, the produce of their work going to the general profit of the villagers. 2. *Kasui* or *shita mizu* (literally, underneath-water).

of the neighborhood as a whole, whether the drain be used by one person or by many. There are, however, certain limitations of this sort, that drains running east and west [through the ward] are maintained at the expense of those whose land borders thereon, a similar rule applying to drains running north and south.[1]

TOKAIDO. In Musashi *kuni*, Toyoshima *kori*, [in towns] a drain crossing a public highway is cleaned at the expense of the residents of the block [which it serves,] if it is of the grade known as "great drain;"[2] if smaller, the expense is paid by the owners adjacent to the drain. In some quarters, an association (consisting of a number of *samurai* or a number of townspeople[3]) undertakes the cleaning of "great drains." In the case of *samurai*, the members pay according to the income they draw from the Government; in the case of townspeople, according to the number of houses owned by each. Certain persons undertake as a business the cleaning of drains. (But since the Restoration this has been abolished. Drains crossing a public highway are cleaned by the Prefectural Government; all others by the local ward-office.)

TOSANDO. In Shinano *kuni*, Saku *kori*, a drain serving a whole village or a number of persons is cleaned at the expense of the whole village. But if it is appurtenant to one estate only, the owner of the estate must clean [the portion used by him], whether it is at the upper or the lower end.[4]

SANINDO. In Iwami *kuni*, Naka *kori*, in towns, the repair and cleaning of drains are at the expense of the house-

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1. That is, apparently, the community of interest was limited to a district served by a large drain running through a whole ward or other large district. 2. *Dai-kasui*. A drain which did not stop when it reached the highway and met the highway drain would be the basis of a system of tributary drains in the indefinite region known as a *cho*. 3. *Chonin*, i. e. merchants. 4. This paragraph is not at all clear; and indeed the same may be said of this whole section.

owners using them, and the rent[1] paid for their use is due from the same persons. In villages, the persons paying are the land-owners served by the drain.

SANYODO. In Suwo *kuni*, Yoshihiki *kori*, in towns, repair and cleaning of drains are undertaken by those through whose land they run. But in some districts the wards or the feudal authorities take charge.

NANKAIDO. In Sanuki *kuni*, Kagami *kori*, in towns, a space is reserved on one side of every drain, called a "place to throw out the refuse." The cleaning of the drain is an obligation resting on every member of the village, and it is done under the inspection of the ward officers.

10.—WAYS.[2]

TOKAIDO. In Owari *kuni*, Aichi *kori*, the width of a wagon-road[3] is fixed at from 6 to 7 feet, and of a field-path[4] at from 3 to 4 feet. Repairs of the latter are made by the village in which they are situated; of the former, by an association of villages[5] existing since ancient times.

In Totomi *kuni*, Sano *kori*, a road for horses must, by an old law, be about 9 feet wide, and a cultivation-path[6] about 3 feet wide. When it is desired to close up an old road and construct a new one, the feudal official must investigate the plan, if the village after a consultation cannot come to a satisfactory decision.

In Sagami *kuni*, Kamakura *kori*, the width of a field-path is fixed at 3 feet, and of a road for oxen and horses at 6 feet. Notwithstanding inconvenience to travel, it is customary that a new road shall not be opened without the consent of the owners of the land through which it is to pass.

In Kai *kuni*, Tsuru *kori*, the width of the Kai Province Sea-Road,[7] one of the Five Sea-Roads, is from 2 to 3 *ken*.[8]

1. *Shaku-ryo*. Why it was paid does not appear. 2. *Do-ro*. 3. *Kuruma-michi*. 4. *Nogyo-michi*. 5. *Kumiai mura-mura*. 6. *Sakumi-chi*. 7. *Koshu* (the province of Kai)-*Kaido*. 8. One *ken*=about 6 feet.

The repairs are usually made at the expense of the fief. But village-roads [1] and branch-roads [2] not more than 6 or 7 feet in width are repaired either by the whole village or by the set of persons [served by the road.] Where a way is used by a particular set of persons[3] and passes through another village, it is repaired by those who use it, and not by that village.

In Musashi *kuni*, Toyoshima *kori*, ways are repaired by the feudal Board of Works, the expense being paid by each block, and apportioned among the proprietors.

TOSANDO. In Shinano *kuni*, Saku *kori*, the width of a great road is usually 9 feet, that of a medium road 6 feet, and of a small road (or field-road, as it is sometimes called) 3 feet. Roads running past houses are repaired by the house-owners, through cultivated land, by the owners of the land which it serves. The cleaning and repairing are done twice a year, in spring and autumn. Repairs of bridges are made by the village as a whole. In Hanu *kori*, a village road is 2 *ken* in width, a field-road [4] 4 feet, and a house road about 5 feet. In Takai *kori*, the owner of cultivated land always leaves a space of 3 feet between the road and his crop, so as to prevent its being injured by the passing horses or vehicles.

In Rikuzen *kuni*, Miyagi *kori*, the width of a great road [5] is 6 *ken*; and that of a petty road [6] is the same, including an "eaves-space" [7] on either side. Repairs and cleaning are done by the owners along the side, of whichever sort the road is. In Toda *kori*, the width of a field-road is usually 1 *ken* or more. The repairs of the road and of its bridges, if any, are made by those who are accustomed to pass over it in carrying on their cultivation; and those only may cut

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1. *Mura-michi*. 2. *Shi-do*. 3. I. e. the cultivators of a certain neighborhood. 4. *Sakuba-michi*. 5. *Okwan-michi*. 6. *Komichi*. 7. *Naki* (eaves)-*shita* (underneath).

the grass along the road. A road running from one village to another is usually 1 to 2 *ken* in width and is repaired by the two villages jointly. A branch great-road[1] is usually not more than 2 *ken* wide, and is repaired by the villages that use it. A great Sea-Road[2] is usually repaired at the expense of the fief. It is the custom for funeral and marriage processions to pass along the public highway, even though the field-road would be nearer. The expense of examining and burying one who has fallen and died by the wayside[3] is paid by the whole village, and is assessed equally upon all the houses. This is true even when the man is found upon land owned by an individual.

In Uzen *kuni*, Okitama *kori*, [in towns,] roads are repaired and cleaned by those past whose residences the road runs, whether it be residence-land proper or an appurtenant possession.[4] If the latter is at a distance from the owner's home, some one living near it acts as undertaker[5] of the work, by appointment of the owner. [In villages] the width of a field-road is sometimes 3 feet, sometimes 5 feet, and there is no regular width. If any extraordinary damage is done to it, the expense of repairs (usually paid by the owners on both sides) is shared by the

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1. *Waki-okwan-michi*,—probably equivalent to *shido*. 2. *Okwan-kaido*,—the largest of all roads, here probably the Oshu-kaido. 3. *Yuki* (going)-*taore* (fall down),—i. e. travellers killed by highwaymen or beggars dying of want. The duty of paying these expenses was not infrequently the subject of litigation between villages,—much in the same way that the settlement of paupers has given rise to a peculiar class of cases in Anglo-American law. See Simmons' "Notes on Land Tenure, etc.", p.p. 195, 200, 206. See also *Kujikata Osadamegaki*, II, Art. 4 (Rudorff, *Tokugawa Gesetzsammlung*, p. 98): "Punishment of those who send a sick traveller on from one inn to another;" and a case in Part III of this Series. 4. *Kakaye* (hold, possess)-*chi*. The exact significance of the expression is not clear. But it seems to indicate something held by the owner of a *yashiki*, and yet not a part of the *yashiki*. 5. *Ukeoi-nin*.

cultivators and others who may use the road a great deal. Where the same road serves as a branch-road[1] and a field-road, the repairs are made by the whole village.

In Ugo *kuni*, Akita *kori*, public roads are marked off into various stages, the division-point being indicated by a stone post or otherwise, and the maintenance of a given part is assigned to a given village, the expense being borne by the village as a whole. When a wayside-death occurs, the expense of examination and burial is paid by the village to which he belongs; but if he is a stranger and his home cannot be learned, then by the village where he is found.

Hokurokudo. In Kaga *kuni*, Ishikawa *kori*, official roads[2] and other important roads are repaired at the expense of the various *kori* through which they run, the duty being apportioned according to the assessed production of cultivated-land,[3] and labour-services being rendered upon assigned portions of the road. The cleaning of the roads falls usually on the villages individually, [each one cleaning the portion within its limits]. In Kawakita *kori*, when land is used for a road, the object being the convenience of a whole, village or a particular group of the inhabitants or even of an individual, a rent is paid by the parties benefited to the owner of the land so used, or else other land is given in compensation; repairs are made by the parties benefited or by the whole village. In Nomi *kori*, the repair and cleaning of a road are done by the owners along both sides, each side undertaking half the road; if there are houses on one side only, the house-owners take care of one half and the other falls to the feudal office or the village as a whole. Field-roads are repaired by the whole village.

In Noto *kuni*, Suzu *kori*, the repair of roads extending through the two *kori* of Hoshi and Suzu, is made by the two *kori* in common; those in one *kori* only, by that *kori* alone.

1. *Shido*. 2. *Kwan-do*. 3. *Kusa-daka*,—an unusual expression.

In Echu *kuni*, Arakawa *kori*, the repair of official roads[1] and branch roads[2] is made at the expense of the different *kori*; that of field-roads, at the expense of the village in which they are; and that of roads over the mountains or through small hamlets,[3] at the expense of the Three Provinces.[4]

In Echigo *kuni*, Kubiki *kori*, roads are repaired and cleaned by the owners on both sides, whether it be a main road[5] or a branch-road. When a wayside death occurs the rule for discharging the expense of taking charge and burying is the same. In Kambara *kori*, the width of village-roads and field roads is not fixed, but is usually about 2 feet. The repairs are usually made by the whole village. The expense of a wayside death is similarly borne, of whichever sort the road may be.

SÂNINDO. In Iwami *kuni*, Shima *kori*, roads are divided into three sorts;—"official construction roads,"[6] of which the feudal office undertakes the repairs; "official assistance roads,"[7] repaired by the people and the feudal office equally; and "self-construction roads,"[8] which the villages alone have the charge of. The cleaning of the roads falls upon the owners along each side; in towns, this is done every morning and evening; in villages, the repairing and cleaning, in the case of main roads and branch-roads, either twice a year (in spring and autumn) or once a year.

SANYODO. In Suwo *kuni*, Kyuka *kori*, a main road is usually repaired by the feudal office; but branch roads, field-paths,[9] and petty ways[10] are undertaken at the village expense. When a road is bordered by houses, the owners on each side usually have its cleaning to do.

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1. *Kwan-do.* 2. *Shi-do.* 3. That is, a road passing through a deserted region but connecting centres of traffic, and therefore an important one. 4. Probably Echu, Kaga, and Echizen. 5. *Hondo.* 6. *Go-fushin-sho.* 7. *O-teate-ba.* 8. *Ji-fushin-sho.* But it is possible that these terms refer to different portions of the same line of road. 9. *Dempata-michi.* 10. *Komichi.*

NANKAIDO. In Tosa *kuni*, Kochi *kori*, the construction and repair of the roads through which the feudal lord goes biennially on his way to render service[1] at Yedo are charged upon all those who live along the road, 3 days labor [per year] being assessed for every *tan* of low land, and the owner supplying rations to the laborers at the rate of 1 *sho* 5 *go* per man per day. If these rations are not given, the same amount must be paid in taxes.

SAIKAIDO. In Chikugo *kuni*, Mitsuma *kori*, the repair of horse-roads[2] and cultivators'-roads[3] is at the expense of the block[4] or village. But ways running past residence-land are usually repaired at the expense of the owners on both sides, though others may pass over the ways.

In Satsuma *kuni*, Satsuma *kori*, erection and repair of great roads[5] and of the stone bridges along such roads are at the expense of the feudal office; while plank-bridges and bridges floored with earth are erected, owned, and maintained by the towns and villages using the branch-roads[6] which these serve.

11.—IRRIGATION.[7]

KINAI. In Yamato *kuni*, Katsurashimo *kori*, there is a village situated some 3 or 4 *ri*[8] from the river Nishijo. This village makes use of the river-water for irrigation by filling its reservoir[9] from the river in spring and autumn, when the villages further up, lying directly along the river,

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1. *Sankin* (journey-duty) *kotai* (alternation). 2. *Umairi-michi*. 3. *Kosaku-michi*. 4. *Cho*, i. e. in towns. 5. *Daido*. 6. *Waki-michi*. 7. *Yo* (use)-*sui* (water). This is a general term applied to water when used for irrigation, fires, etc, in distinction from *aku-sui*, bad or refuse water, i. e. sewage. The subject of the Section is virtually "Aqueducts" or "Irrigation," and the latter has been preferred as a title, instead of some more literal rendering, such as "Usable Waters." 8. One *ri*=2.44 miles. 9. *Tame* (collect, preserve)-*ike* (pond).

do not need it, and thus sufficient water is stored up for the remainder of the year. As a compensation they pay to the upper villages a tax for the use of the water and also are responsible for some share of the expense of repairing and cleaning the aqueducts.

In Settsu *kuni*, Higashinari *kori*, where the cultivated area is low-lying, the river is dammed, and the water led into the fields by aqueducts. In hilly regions reservoirs are constructed and are filled by rains or from springs.

TOKAIDO. In Kai *kuni*, Yamanashi *kori*, the repairing of flumes and channels is done by those who use the water; that of reservoirs and ponds by the whole village, each villager being bound to contribute one day's labor. Sometimes, however, the expense is apportioned according to the assessed amount of land, or according to the number of houses. But the repairs of the three ponds, Tokushima, Yasuzaka, and Asao are done by the water-superintendent, the expense being paid by the feudal lord. In Yatsushiro *kori*, when an aqueduct serving a village suffers injury, the owners of rice-land pay the expense of the repairs. But if the expense is too great for them alone, the owners of upland must contribute something.

In Musashi *kuni*, Toyoshima *kori*, the water is brought in to Yedo by the Kanda and the Tamagawa aqueducts, the construction and repairs being in charge of the Public Works Office. The repair of the pipes and flumes of the Main Palace, the West Palace, and the Fukiage Palace are made at the expense of the Government. The military gentry are liable for their water-taxes according to their incomes, and the townspeople according to the frontage of the houses, the payments being made to the Public Works Office.

TOSANDO. In Shinano *kuni*, Takai *kori*, an association[1] of persons sometimes undertakes the repair of the head[2] of

1. *Kumiai*. 2. *Bunsui* (dividing the water)-*kuchi* (mouth, source).

the aqueduct system, the villages taking charge of the aqueducts in their lower length. Where a village or a set of persons makes use of water from a source owned by a different village or set of persons, the former takes no part in the management of the upper part of the system. In Minochi *kori*, river and aqueduct water is invariably regarded as the property of the whole village or of an association, and no individual may own it exclusively. The villagers, when repairs are ordered by the village officers, must render labor-services for that purpose. When an aqueduct serves several villages, A, for instance, using 1 part of the water, B 5 parts, and C 6 parts, A is not liable for any share in the expenses, B and C bearing them all. Various other arrangements exist for sharing the expenses, depending on the circumstances.

In Rikuzen *kuni*, Toda *kori*, at ordinary seasons, there are no special regulations as to the use of water. But in time of drought the water is usually obtained from some large river, the quantity [admitted to each aqueduct] being proportionate to the extent of land [served by it]. For example, if there are [on the line of the aqueduct] 10 villages, each assessed at 1000 *koku*, sufficient water is taken for land of 10,000 *koku*, the water passing down through the upper to the lower villages. If the land is so situated that it is impossible to lead the water successively from high land to low land, then it is let on for one region one day and for another the next day, the two regions alternating in the use. This is termed "watch water."[1] The same arrangement obtains for distributing among individuals the water of aquenducts belonging to a single village. The construction

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The idea is that the system of distribution began at a certain point, perhaps a dam or pond, whence the various aqueducts branched off, and where the flow was regulated by the managers of the system.

1. *Ban-mizu.* See Iwami *kuni*, *infra*.

and repair of the distributing-head[1] is at the charge of the feudal lord; that of the aqueducts, at the charge of the villages using them. Reservoirs are for the most part the property of the feudal lord, but sometimes of a village or of [an association of] 5 or 6 individuals. The repairs are always made by the owner; so that if a person has a reservoir on his own land, he repairs it himself and has the sole right to use it.

In Uzen *kuni*, Okitama *kori*, irrigation water is led directly from a river. The breadth of the [main] aqueduct is usnally 5 *ken*[2] and 5 feet, and the repairs are made by those whom it serves. Where it is a branch, serving only a special group of persons, its width is less than this.

In Ugo *kuni*, Hiraga *kori*, it is customary for 5 or 10 villages to form an association and have a common aqueduct system. The repairs and cleaning of channels and flumes are done at the common expense. One of the villages (termed "parent village"[3]) manages the distribution of the water from the head and regulates its use. When land is taken for aqueduct purposes, the owner is not given any compensation but is simply excused from the taxes of the area taken. Where a reservoir lying in village A and owned by the village is used by village B only, village A may not shut off the water so as to prevent its use by village B; but the latter must undertake the repair and cleaning of the channels and flumes. The rule is the same where A and B are individuals.

HCKUROKUDO. In Kaga *kuni*, Ishikawa *kori*, when village A constructs an aqueduct through land belonging to village B, the farmer must pay to the latter a sum (termed "aqueduct-rent") equal to the produce and rice-taxes[4] upon

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1. *Uchi* (within, at)-*kawa* (river)-*kuchi*. That is, the point on the river whence the water was sent in various directions through the aqueducts. 2. One *ken*=about 6 feet. 3. *Oya-sato*. 4. *Nengu-sakutoku*. "Rice-taxes" may be an error for "labor-services," for the rice-pro-

the land thus taken. In Yenuma *kori*, when one village leads water over its land from an aqueduct, the villages lying lower down have a right to use the water flowing off, but must also pay some part of the expense of repairs. The rate is usually 30 days' labor for every 100 *koku* of assessed production, but may be more than this in time of drought, if more labor is needed.

In Noto *kuni*, Suzu *kori*, where on aqueduct is planned by one village and others below it are in need of water, the former may not construct the aqueduct as it pleases, and it usually undertakes to make it of a certain width and depth.

In Echu *kuni*, Imizu *kori*, when one village owns a pond whence several other villages obtain water, they pay a rent for it, as well as the cost of repairs, the assessment being apportioned according to the amount of land owned by each village.

SANINDO. In Iwami *kuni*, Shima *kori*, wells are relied on for drinking-water, and irrigation-water is obtained by aqueducts from a reservoir or from a dam on a river. Dams are of three sorts, according as they are contructed and repaired by the feudal lord, by a village with the assistance of the lord, or entirely by a village. In a time of drought the water is taken by different districts in turn, and good and true men are chosen to watch that the distribution of the water is properly made; so the term "watch-water"[1] is used.

In Idzumo *kuni*, Kamikado *kori*, there are two rivers, the Hi, running from Hashido village in Nita *kori*, to Kamisato village in Kamikado *kori*, and the Hii, running from Kamisato village to Kamidate village in the same *kori*. From these rivers comes the water used by the *kori* of

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duce would include the rice-tax; but more probably the explanation is that "produce" means the net profits after paying out the rice-tax.

1. *Ban-sui*.

Kamikado, Tatenui, and Idzumo. In the village of Ishizuka, which is conveniently situated for managing the distribution of the water, the head of the aqueduct-system is made, and the people of this village take charge of the distribution of the water to the three *kori*. The repairs and cleaning of channels and flumes are done at the expense of the three *kori*. In Nomi *kori*, the maintenance of river banks and aqueducts and the cleaning of rivers nsed for irrigation purposes are done at the expense of the feudal office.

SANYODO. In Mimasaka *kuni*, Katsunami *kori*, as disputes are liable to arise in regard to the distribution of water, a water-watch[1] is appointed at the expense of the village, to regulate the distribution fairly. Thus those only who share in the expense[2] of the watch may use the water, even during a drought. The same persons also pay the expense of repairs.

In Suwo *kuni*, Yoshihiki *kori*, [in one region] there are 48 small ways[3] leading from a place called Yamaguchi,[4] and along each one passes a flume. At that point in a place called Kimachi, lives a keeper whose duty it is to regulate the supply. If, for example, a fire occurs in a certain village, the water is turned on for that village. The repair and cleaning of flumes and embankments are made by those who are served by them. In [other] villages water is obtained from a river or a reservoir, the repair and cleaning being done half by the people, half by the feudal lord. At a time of draught, a water-watch is sometimes appointed to regulate the distribution of the water. But sometimes the distribution is effected by a method of alternation, the water being turned on to one plot today, another to-morrow and so on. There is still a third method, in which they use what is known as "divide-

1. *Mizu-ban*. 2. That is, the people of that village only. 3. *Komichi*. 4. Probably, as the name implies, at the foot of a mountain.

timber."[1] A hole of from 1 to 10 inches in diameter is made in a plank, and the water is let out according to the area of the plot to be served. For example, if the plot is 1 *tan* in area, a 1-inch aperture is used; 2 *tan* in area, a 2-inch aperture; and so on.[2] Still another plan is to choose from the villagers good and true men to manage the distribution and determine which plots most need the water, without regard to whether they are large or small, on high land or on low land. This method is regarded as the best. It sometimes happens that a villager manages surreptitiously to turn the water into his plot when he is not entitled to. When this is discovered, the water-watchmen repair to his house, and taking away one of his kettles, they put it in pawn, and spend the money in a wine-bout. This has been since old times the customary punishment for a water-thief.

NANKAIDO. In Awaji *kuni*, Tsuna *kori*, when those who live along the upper part of an aqueduct wish to make a new dam, they must first consult and obtain the consent of the owners below them.

SAIKAIDO. In Higo *kuni*, Aso *kori*, the local officers execute all undertakings connected with the construction and repair of aqueducts, working under the orders of the Embankment Bureau and Aqueduct Bureau of the feudal office.

In Osumi *kuni*, Gora *kori*, the construction and repair of aqueducts are done at the expense of the feudal office [and by its direction], only matters relating to the distribution being in the hands of the local officers; while a "labor-official"[3] superintends performance of the works undertaken.

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1. *Bun-ki.* This seems to mean "plank;" and yet it may be that the *bun* refers to the distribution of the water. 2. It is probable that planks having the proper aperture were placed at each of the openings leading from the main canals to the different plots. 3. *Chikara-kayu.*

12.—RIVERS.

TOKAIDO. In Musashi *kuni*, Toyoshima *kori*, in towns, rivers are cleaned by the feudal office. Those along the banks who use the water for manufacturing purposes must pay to the feudal office a sum of money under the name of "thank-money"[1] or "additional money."[2] Bridges are built by associations[3] of military gentry and townspeople. Those who have stone-embankments, small bridges, and landing-places, are obliged to pay dues and to refrain from obstructing the flow of water or the passage of boats.

TOSANDO. In Uzen *kuni*, Okitama *kori*, [in towns], the Matsu river, small at ordinary times, rises very suddenly in rainy weather and becomes some 1,000 yards wide, so that the expense of repairing the banks is divided among the houses in an area of 16 wards. The assessment in former times was made, not according to the number of houses, but according to the extent of one's residence-land, the unit being a plot 6 *ken* square. The source of the river is regarded as a part of the river, even in the dry season, and not the property of any individual or any ward.

HOKUROKUDO. In Kaga *kuni*, Ishikawa *kori*, the right of fishing belongs to the village occupying the banks, though the right is sometimes sub-let. A tax (known as "river-services") must be paid for the right to fish; and hence those paying the tax are entitled to exclude others. In Kaga *kori*, there is an old feudal law against changing the bed of the river temporarily for the purpose of obtaining fish. Another method of fishing, known as "pond-clearing" requires the closing of the aqueduct or river by a dam; but this is not permitted before the 210th day.[4]

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1. *Myoga-kin.* 2. *Sashikuwai-kin.* 3. *Kumiai.* 4. A day indicating a stage in the ripening of rice when it is almost ready for the sickle. Presumably the water was needed for irrigation until this time and was therefore not to be interfered with.

In Echigo *kuni*, Uwonuma *kori*, river banks are maintained at the joint expense of the feudal lord and the people. In Kambara *kori*, rivers run up and down or across a town are called "navigable," and are used for freighting and for extinguishing fires. The drain-water and rubbish of the town are received by the river, and so there is a cleaning, once a year, at the expense of the town.

SANINDO. In Idzumo *kuni*, Takata *kori*, there runs through the province a large river, the Kanogawa. No clear distinction exists as to the respective duties of feudal lord and villagers in regard to repairs of the river banks, for private lands and demesne lands are intermixed in a very confused manner, and the proceedings are different for the two kinds of land.

SANYODO. In Suwo *kuni*, Yoshihiki *kori*, repairs of river-banks, etc., are made by the villages on either side, each village repairing its own side up to the middle line of the river. But the right of fishing belongs exclusively to one or the other side of the river ; and so the taxes (known as "salmon river-service rice"[1] or "whitefish river-service-rice"[2]) are paid by that side only, the rate being 10 *momme* for each *koku* of the assessment of the river-property. Where the river changes its channel, the new channel is cleaned out only in that portion used by boats, the work being done by the boatmen, and the expense being paid by the feudal office. But where the sum so advanced is not enough, the riparian owners must supply the deficit.

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1. *Ai-kawa-yaku-koku.* 2. *Shirauwo-kawa yaku-koku.*

CHAPTER III.

SUCCESSION[1] TO FAMILY PROPERTY.[2]

1.—PETITIONS AND REPORTS.

When a person succeeds to the headship[3] of the family, he exchanges his own second name for the usual second name (called the "public name"[4]) of the master of that family; so that nore-registration in the land-register is needed; but the age of the successor is recorded and the name of the retiring father is re-entered in the temple-register.[5] The successor usually employs as his principal seal[6] that used by his predecessors, esteeming the possession of it an honor.

The more or less varying customs in different districts are as follows.

KINAI. In Yamashiro *kuni*, Kadono and Atago *kori*, in villages, no special report is made to the authorities by the successor; but he adopts the family cognomen, and at the

1. *Sozoku.* 2. *Ka-san.* 3. *Katoku.* 4. *Kogi-na.* This will hereafter be termed "family cognomen." 5. *Shumon* (religious sect) *ninbetsu-cho* (record of persons). This was because the name of the head of the family stood at the head of the list of family members, and also because, as appears below, the retiring head usually changed his second name. 6. *Jitsu-in*, used for formal acts of legal importance.

time of revising the temple register reports that he will continue to use the ancestral seal. But in towns a report must always be made, and the successor, accompanied by the ward officers, presents himself at the office of the town-magistrate, with a deed of grant of the real property, and has it indorsed. In general the male heir-apparent, when he reaches the age of 17, goes through the form of "hat[1]-donning," some person, at his request, acting as "hat-father." After this time he is entitled to take part in the affairs of the ward or village. But second and other sons are called "room-dwellers"[2] and do not go through this form.

In Idzumi *kuni*, Otori *kori*, a son or younger brother, who has succeeded to the estate[3] of his father or brother reports the fact to the ward-elder, who reports to the chief elder. A deed of transfer, countersealed by the relatives of the successor, the company, and the ward-officials, is then filed, and the successor's name is substituted in the land register.

In Settsu *kuni*, Nishinari *kori*, a notice is given to the ward officers, and the successor's name is substituted in the land-register. But this procedure is not needed in the case of other than house-owners.[4]

TOKAIDO. In Suruga *kuni*, Abe and Udo *kori*, when one succeeds to a family name,[5] he reports the fact at the local office and assumes the family cognomen, not changing the ancestral seal; some persons do not adopt the family cognomen, yet leave the entry of name in the land-register unchanged. In Shida and Mashizu *kori*, no report of a succession is made. But the local officials, when the master of a family reaches the age of 60, take his name from the beginning of the family list in the temple-register and place it at

1. *Yeboshi* is an old-fashioned hat worn on formal occasions, but only by adults. 2. I.e. take no part in the outside affairs of the place. 3. *Iseki* (estate of a deceased person)-*cho*. 4. *Iyemochi*. 5. *Kamei*.

the end; so that a man of that age goes into retirement as of course. The same seal is used for many generations.

In Sagami *kuni*, Kamakura *kori*, when the eldest son[1] marries, he thereupon becomes the successor, and takes the family cognomen, reporting the fact to the local office.

In Musashi *kuni*, Toyoshima *kori*, the custom is, ever since the period Kwansei (1789-1801), for every succession to landed property to be publicly announced in the streets by the feudal governor, and for the name to be changed in the title-deeds. If a deceased head of a family left no male issue, the property is managed by the widow or a daughter, and it is afterwards transferred into the name of the person who joins the family as husband of one of its female members. If any causeless delay occurs in fixing upon such a person, the local officials may interfere and urge the widow or daughter to do so. When a person during his lifetime names another as his successor, it is an old rule of the town magistrate's office that a note ought to be made in the register of succession.[2] This was again prescribed by a proclamation in the 6th year of Kyoho (1721); but it has been but little observed since that period.

In Kai *kuni*, Yamanashi *kori*, when the succession to the headship occurs, the relations and company have a meeting for the purpose, and send to the ward-headman a verbal notice of the succession.[2] In Koma *kori*, in case the successor is a son by nativity[3] and not a son or son-in-law[4] by adoption, no notice to the authorities is necessary.

TOSANDO. In Omi *kuni*, Shiga *kori*, no report is made. In Inugami *kori*, when a succession[2] occurs, the usual record is made at the time of the revision of the temple-register, the change being called "one family change."

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1. *Cho-shi*. 2. *Dai-kaye* (lit. generation-change). 3. *Jitsu-shi*. 4. *Muko-yoshi*,—adopted for the purpose of marrying a daughter of the family. Such a person takes the name of the family into which he marries.

In Mino *kuni*, Ahachi *kori*, when a succession occurs, a report is made to the local office and the change of ownership of real property is noted in the land-register, the names being also changed in the temple-register,[1] after 100 days have elapsed.

In Shinano *kuni*, Saku *kori*, when a family-master dies or retires, notice is given to the village officers, and the successor takes the family cognomen. In Ogata *kori*, a similar notice is given. In Hanu *kori*, when a family-master dies or retires, a petition, countersealed by the company, and requesting the succession, is filed by the eldest son, through the headman of the ward, at the ward-office, and after permission is received, a public announcement is made.

In Shimotsuke *kuni*, Tsuruga *kori*, the successor reports to the local office, deposits a facsimile of his seal, and adopts the family cognomen.

In Iwaki *kuni*, Shirakawa *kori*, the successor, who is called "chief sealer,"[2] reports to the local officials, who at the time of the revision of the temple-registers transmit all such reports to the feudal official for record. The change is also made in the village tax-register, at the end of the year, when the taxes are paid.

In Iwashiro *kuni*, Shinobu *kori*, the successor's report is made as in the previous instance. The family cognomen is adopted, so that no change in the land-register is needed. In Aidzu *kori*, retirement is not practised among the common people. A successor reports to the local officials, who make the proper corrections in all the books.

In Rikuzen *kuni*, Miyagi *kori*, in towns, a report in writing, signed by the retiring person, the successor, and one of the company, is presented to the headman. If the succession be permitted by him, the property standing in

1. *Nimbetsu-cho.* 2. *Han-gashira*,—because his seal heads the list in his family.

the land-register[1] in the name of the transferor is placed in the name of the transferee. The headman then orally informs the town magistrate, who corrects the land-register at his office.

In Rikuchu *kuni*, Isawa *kori*, the successor adopts the family cognomen. He must report to the local officials, if he is a son by adoption, but not if a son by nativity. In Iwate *kori*, retirement is not in name practised among the common people. No special report is made of a succession; and usually no change in the land-register is made, as the successor adopts the family cognomen.

In Mutsu *kuni*, Tsugaru *kori*, retirement is not known. The successor to a deceased person adopts the cognomen.

In Uzen *kuni*, Okitama *kori*, all successions must be reported orally to the company-chief, immediately, in case of a retirement, and within 50 days, in case of a death; and the latter reports to the bailiff,[2] who makes an official record. The fact must also be reported in writing, attested by the ward-chief, to the superintendent of sects,[3] on the 10th day of the 2nd month, when the annual revision of the temple-register is made. In Murayama *kori*, a report is made only when the successor is an adopted son. The family cognomen is adopted, and thus no change in the ownership as recorded in the land-register is necessary. In Tagawa *kori*, the successor affixes his seal in the family-register[4] at the local office; the ward or village officials then report at the annual revision of the temple-register in the 6th month.

In Ugo *kuni*, Akita *kori*, no petition or report is necessary, for as retirement during lifetime is not the custom here, and as the elder son succeeds as of course, a mere notice of the death is sufficient. The headman makes a note in the

1. *Ken-cho* or *noki-cho*,—stated in a note to have been similar to the *mizucho* but distinct from it, a separate *kencho* being kept in every *cho* or block. 2. *Kendan*. 3. *Shumon-bugyo*. 4. *Koseki-cho*.

family register at the time of revision. The family-master has in most families borne the same cognomen for generations, and thus the successor takes the name of his father.

HOKKAIDO. In Oshima *kuni*, Kamedo *kori*, the report of a succession is made at the local office.

HOKUROKUDO. In Echizen *kuni*, Tsuruga *kori*, a successor is obliged to adopt the family cognomen. The retiring master changes his name; but as he is entered in the temple-register merely as "the father," no report is ever made to the village office.

In Kaga *kuni*, Ishikawa *kori*, [in towns] when the headship is transferred in the lifetime of the master, the grantor and the heir appear at the ward-assembly office, with an instrument signed by both, and the entry in the family-register is then changed. But a farmer is not permitted to distribute his property among his children during his lifetime. The successor to a farmer is obliged to take the same family cognomen as the previous family-master. In Yenuma *kori*, the will [1] of a deceased person is taken to the feudal office, together with a petition signed by the successor, relatives, and company (the occasion is called "opening the will," and the proper time is the 7th day after the master's death), and the succession is confirmed.

In Noto *kuni*, Hagui *kori*, the successor adopts the family cognonen. Only the fact of the death is reported to the feudal official, as the eldest son succeeds as of course.

In Echigo *kuni*, Kubiki *kori*, no petition or report is made by the successor; but the name of the new master is substituted at the revision of the family register. But when retirement occurs, the successor gives verbal notice to the headman.

SANINDO. In Tango *kuni*, Yosa *kori*, on the death of the master the local officials, without waiting for a report, substitute the name of the eldest son as master, but if it is

1. *Yuigon.*

a case of retirement only, they wait for a report. When the successor changes his name, it is customary for him to report to the officials.

In Inaba *kuni*, Omi *kori*, the successor is not obliged to report until the time of revising the temple-register, when the local officials substitute his name as head. In towns the succession—which they call "change of master"[1]—must always be reported.

In Idzumo *kuni*, Shimane *kori*, on the death or retirement of a family-master, an instrument certifying to the succession, sealed by the relatives and company, is sent to the town-magistrate, and the chief inspector[2] and ward-elder make a note in their registers (the family-register and the land-register), the name of the heir being substituted as family-master. In Soyegami *kori*, notice is given to the chief elder through the ward-elder, and the change is made in the temple-register, the chief elder affixing his official seal.

In Iwami *kuni*, Naka *kori*, notice of a succession is given, in villages, to the headman, in towns, to the elder, whether the heir is son by nativity or by adoption. But the notice is not made until the time of the revision of the temple-register,[3] in the 2nd month of every year, and then only by the new master himself.

SANYODO. In Harima *kuni*, Shikito *kori*, permission of the feudal official must be obtained for a family-succession.[4] If a new seal is adopted, a facsimile of it must be deposited; but not if the use of the ancestral one is continued.

In Mimasaka *kuni*, Nishihojo *kori*, notice of succession is given to the chief elder, through the ward-elder, in case of retirement, but in case of a death, only notice of the fact of death is given [by the successor], as it is assumed that the eldest son has succeeded.

In Bizen *kuni*, Mino *kori*, there are no other proceedings than a notice to the ward-elder, who makes a note in his register.

1. *Teishu-kaye.* 2. *O-mokudai.* 3. *Nimbetsu-cho.* 4. *Iye-sozoku.*

In Bigo *kuni*, Mitsuki *kori*, no special report of a succession is made, the matter being decided by a family consultation. The family cognomen remains the same for hundreds of years, and the entries in the land-register are left as they are.

In Aki *kuni*, Numata and Aki *kori*, a succession to village property is usually not reported until the next revision to the temple-register. In towns it is necessary for the successor to appear at the magistrate's office and stamp his seal in the register, the proceeding being called "book-changing."

In Suwo *kuni*, Yoshihiki *kori*, notice is given, in towns, to the elder, in villages, to the watch-chief.

In Nagato *kuni*, Toyoda *kori*, when among the upper classes[1] (known here as *memi*), that is, those who may have a family name and wear two swords, a succession occurs, notice is given to the proper official; [such an arrangement] is known as "direct-control."[2]

NANKAIDO. In Kii *kuni*, Nakusa and Abe *kori*, in villages, no special report is made, but the entry of the name of the family-master is changed at the revision of the temple-register. In towns, a succession to realty requires the permission of the feudal official. Where the inheritance is granted by one retiring,[3] a petition by the retiring master is enough; but where the grant is by one deceased,[4] there must be a witnessed document of grant, and a petition must be filed within 50 days after the decease, the entry in the land-register being thereupon changed. Any necessary delay must be explained beforehand.

In Iyo *kuni*, Uwa *kori*, in villages, a succession is reported at the local office and the name changed at the time of revising the temple-register. In towns, a petition

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1. *Jō-tō*. 2. *Jiki-shihai*. This is a technical phrase, as ordinarily used, signifying the official just above any given official (see Part III, No. 12). But here the meaning is not clear. 3. *Inkyo-yuzuri*. 4. *Shikyo-yuzuri*.

countersealed by the successor's company must be filed, and a letter of permission obtained from the magistrate.

In Tosa *kuni*, Ogawa *kori*, the common people, in case of a succession, merely notify the local officials; this is called "name-changing."[1] The country-*samurai*[2] petition the feudal official to allow the desired succession, and moreover are allowed (as the commoners are not) to retire during lifetime, and to transfer the family-pedigree.[3] These country-samurai are those who have reclaimed waste land (the area must be 3 *cho* or more) and are permitted to enjoy the profits without paying taxes or other charges.[4]

SAIKAIDO. In Chikugo *kuni*, Mii *kori*, notice of a succession is given to the company-chief, inspector,[5] and ward-elder, and the successor's name is substituted in the register.

In Buzen *kuni*, Shimoge *kori*, when a master over 60 years of age refuses to go through the form of "picture-trampling,"[6] the local officials treat him as having retired, and alter the name in the registers. A new master does not adopt the family cognomen until the death of the retired master.

In Bugo *kuni*, Oita *kori*, retirement is not practised. On the death of the master of a family, the family cognomen is adopted by the eldest son, if the local officials so decide. In Hayami *kori*, a succession must be followed by a report and a change of name in the books. The principal seal must be changed; and if time is required for this, the successor reports that he will temporarily use that of his predecessor.

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1. *Namaye* (name)-*tsuke* (fix)-*kaye* (change). 2. *Go-shi*. 3. *Kabu*. This seems here the significance of this protean name. 4. See the paper by Mr. Grinnan, on "Feudal Land Tenure in Tosa," in Trans. Asiat. Soc. Jap., 1892. 5. *Metsuke*. 6. *Fumiye*,—a reference to the trampling upon a picture of Jesus which was periodically required as a test of non-Christianity.

In Higo *kuni*, Tamana *kori*, no petition or report is required.

In Osumi *kuni*, Sō *kori*, the local officials, at the time of the revision of the temple-register every 7 years, ascertain and report to the feudal official all the successions that have occurred, and, after sanction obtained, change the names in the books. The successor,[1] except in rare cases, preserves his own name.

2.—RIGHT OF SUCCESSION TO THE HEADSHIP.

It sometimes happens that the master of the family exercises his discretion and creates a branch-family with the eldest son as its head, letting the youngest son succeed in the chief family. But as a rule the eldest son is made the successor.

The varying customs on the subject are as follows.

KINAI. In Yamashiro *kuni*, Atago and Kadono *kori*, when something affecting the eldest son causes the father to select the second or third son or any other person as the successor, he must prepare a deed of grant, bearing the attesting-seal of the feudal official, and place it on deposit in the local office. The power to disinherit the eldest lies in his discretion. Every deed of grant to take effect after death must bear the attesting-seal of three relatives.

In Yamato *kuni*, Yoshino *kori*, the right of succession belongs generally to the eldest son;[2] but, if the father wishes, he may make the second or third son his heir, establishing the eldest in a branch family.

TOKAIDO. In Owari *kuni*, Aichi *kori*, the eldest son has the right of succession. But it often happens in villages that, in order to encourage agricultural undertakings, the master of the family has his sons one after another, begin-

1. *Zoku-nin.* 2. *Chonan.*

ning at the eldest, establish branch-families, the master making such an apportionment of his property as he sees fit.

In Idzu *kuni*, Takata *kori*, and in Hitachi *kuni*, Niibari *kori*, the eldest child succeeds, whether male or female.

In Kai *kuni*, Koma *kori*, the term "succession" is properly applied when the master of a family either dies or retires from business by reason of age, and his son or adopted son-in-law succeeds. In ordinary cases the eldest son is entitled to the succession; but he is sometimes excluded from it on the ground of either physical or mental unfitness to govern the family, and the younger brother succeeds instead. If there is no younger son, the succession is sometimes selected by a council of the immediate family and other kindred. In Yamanashi *kori*, the eldest legitimate son[1] succeeds. But if by reason of mental or physical incapacity or of misbehavior he is deemed unfit to manage property, the second or third son or [failing these] a daughter is given the succession, a son-in-law being adopted in case of a daughter.

In Musashi *kuni*, Toyoshima *kori*, the right of management usually passes to the heir immediately on succession; but sometimes the father [in case of retirement] or the relatives [in case of the father's death] superintend the family affairs, especially in pecuniary matters, whether the successor be son by nativity or by adoption.

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1. *Chakushi*. This word seems to be used by the author primarily in the sense of "eldest" as distinguished from second or third son. Dr. Hepburn gives it the same meaning. But the original sense is "legitimate son,"—*chaku* being "straight," "just," and *shi*, "son." "*Chakushi*," in the new Code, to be sure, signifies "legitimate *child*"; but the older use was looser, and clearly "son" is here intended. But in several passages in this Section it is clear that the term carries the idea of "eldest;" in only one passage is the meaning "legitimate" an essential one. On the whole, then, the phrase "eldest legitimate son" has seemed the best rendering in most cases, the idea "legitimate" being probably the subordinate one. Dr. Weipert suggests, as the best single term, *erbsohn* or *hauptsohn*, the Japanese understand at once that "*the* son" is nobody else but the eldest legitimate son.

Tosando. In Omi *kuni*, Shiga *kori*, the person who can show a deed of grant[1] becomes the successor. In villages, when the eldest son reaches the age of 16, he calls together the oldest people of the village,[2] goes through the ceremony of donning men's clothes,[3] and gives up his boy's name.[4] This occasion is called "hat-donning," and determines his right as heir-apparent.

In Shinano *kuni*, Ogata *kori*, it is the custom, in order to avoid disputes as to the succession, that every farmer (whether youthful or aged) shall in a dangerous illness name his successor in a writing attested by the headman and company-chief; and when this duty is neglected, the headman, company-chief, company, and relatives urge him to fulfil it. If after all a person die intestate his property is inventoried in a book, which is given into the custody of some relative until a successor is chosen. A will unattested is invalid. In Takai *kori*, custom requires that the succession to the family estate and the mode of distribution of personal estate shall be provided for before death in a writing sealed by the headman and company-chief. No claim to the property can be brought unless thus certified in writing. In Saku *kori*, the eldest son[5] generally is regarded as having the right of succession. But if the father has reason to fear to trust the management of the family property to him, he may make the second or third son the heir, establishing the eldest in a branch family and apportioning to him a larger share than would have fallen to a younger son in such circumstances. In Minochi *kori*, among *samurai*, an illegitimate son[6] cannot succeed, unless he has been acknowledged by petition to the feudal office and legitimized[7] by its approval. Moreover, an illegitimate son, even though older than the other children, must call

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1. *Yuzuri-jo*. 2. Thus invoking for himself a life as long as theirs. 3. *Gembuku*. 4. *Yomei*. 5. *Chonan*. 6. *Mekakebara no danshi* (lit., concubine's son). 7. *Chakushi*.

them "elder brother"[1] or "elder sister"[2] and be termed a younger son,[3] until he is legitimized as above.

In Shimotsuke *kuni*, Kawachi *kori*, if the eldest child is a daughter, a husband is found for her and he succeeds to the headship; for if a son were allowed to succeed in her stead, the labor available for cultivation of the family land would be diminished.[4]

In Uzen *kuni*, Tagawa *kori*, a similar custom prevails. In Okitama *kori*, the eldest legitimate son[5] has the right of succession, and if he dies, the right passes to the legitimate grandson.[6] If, however, the grandson is too young to manage the property, one of the grandparents or great-grandparents assumes the succession temporarily, the grandson being adopted as a son by that person. In case of retirement during lifetime, the heir does not receive the entire patrimony, a part being reserved as a retirement-portion.[7] But on the father's death, this too passes to the successor. The name "key-grant"[8] is given to this custom.

In Rikuzen *kuni*, Miyagi *kori*, the right of succession belongs to males[9] only; thus if the eldest child is a female,[10] the next male child succeeds; or if the eldest son dies and the second child is a daughter and the third a son, the latter succeeds. But if the eldest son leaves a son, a brother[1] or [married][11] sister takes the succession temporarily, the grandson becoming the adopted son; this arrangement is known as "adoption in the line."[12]

In Ugo *kuni*, Akita *kori*, the eldest son customarily succeeds. But if he is too young to manage the property, and the second child is a daughter, her husband (the

1. *Ani*. 2. *Ane*. 3. *Nisannan*. 4. By the death or retirement of the father, leaving none in his place. 5. *Chakunan*. 6. *Chakuson*, i.e. the son of the one who would have succeeded. 7. *Inkyo-ryo*. 8. *Kagi-yuzuri*; the allusion is obscure. 9. *Danshi*. 10. *Joshi*. 11. See the next paragraph. 12. *Jun* (order, line)-*yoshi* (adoption), i. e. adoption of one standing in the original line.

adopted son-in-law) takes the succession temporarily, adopting the grandson as his heir. The daughter's child has in such a case no right of succession.

HOKUROKUDO. In Kaga *kuni*, Ishikawa *kori*, succession may occur during lifetime, as already described. But it is more customary for the master of a family to make his will and put it in the keeping of his company; so that when a death occurs, the successor is required to make his will and deposit it with the company, who thereupon deliver up to him the will of his predecessor. When a succession af death occurs, the will of the deceased is opened in the presence of the headman, the relatives and the company, the occasion being known as "will-opening."[1] If the headman considers any part unjust, he refers it to the magistrate for decision. It is the custom for the successor to adopt the family cognomen of his predecessor; and ordinarily the eldest son, with the approval of the relatives, merely changes his name and becomes family-master. But it on account of physical defects or other reasons the eldest son is unfit or if no son survives, a brother or other near relative is appointed by agreement of all the relatives.[2] In Nomi *kuni*, a person may, on account of the infancy of his eldest son, nominate his wife as successor, duly informing his relatives and company of his determination, but the widow must procure the sanction of the magistrate to her succession. The succession is always determined at the pleasure of the testator. In Kawakita *kori*, when the master of a family dies, and the widow marries again (this is termed "succession by going as a husband,"[3]) the children by the first husband are regarded as the sons by nativity of the second, and the eldest son becomes the latter's heir, taking precedence of the children by the second marriage.

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1. *Yuigon-hiraki.* 2. The above paragraph is in the original a tangle of inconsistent and obscure statements, and it has been impossible to interpret them clearly. 3. *Iri-muko-sozoku.*

In Noto *kuni*, Hagui *kori*, the eldest son succeeds as of course, if the will contains nothing to the contrary, even though he be an incapable. If no son is living, the council of relatives appoints a successor and reports the name to the magistrate. In Hoshi *kori*, the permission of the feudal official is necessary in order that one may give the eldest son in adoption to another family and make a younger son the successor. When the widow of a man dying without issue endeavors to obtain the succession by taking another husband, she must file with the feudal official a petition signed by herself and all relatives not beyond the degree of cousin.

In Echū *kuni*, Imizu *kori*, the master of a family makes his will betimes, seals it up, and deposits it at the ward office. After his death the will is opened in the presence of his relatives and company and the ward officers, and the appointee is made successor. If no successor has been nominated or no will has been made, a council of relatives appoints a successor. But the general custom is for the eldest legitimate son[1] to be appointed heir, and if he is dead, his son[2] ranks next. If no legitimate son[3] survives, the succession may go to an illegitimate son.[4] In Tonami *kori*, the will is made betimes, in towns, by the family-master (perhaps appointing a daughter), sealed up, attested on the outside by the company, and deposited with the company-chief. A council of relatives is held on the 7th or 14th day after the decease, and the question is put as to whether the eldest son shall succeed. If the decision is in the affirmative the appointment in the will does not stand; if in the negative, the will is opened, in the presence of relatives and company, and the appointee becomes successor. The company-chief then informs the town magistrate. But in villages the succession can never go to a daughter.

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1. *Chaku-cho.* 2. *Chaku-son.* 3. *Seike.* 4. *Junke.*

In Echigo *kuni*, Kubiki *kori*, the succession is for males[1] only, the [eldest son's] son or grandson[2] taking precedence of a brother. When the heir is less than 10 years old at the time of the father's death, the widow takes the headship of the family, and is entered on the sect-register as "widow of A." If the widow marries again, the new husband becomes family-master, and the heir by the first marriage is adopted as his heir. In Kambara *kori*, the right of succession belongs to males only. If there are none, then the brother of the deceased becomes family-master, in preference to a daughter.

SANYODO. In Bichu *kuni*, Kuboya *kori*, the right of succession belongs first to the eldest legitimate son.[3] But sometimes he is established in a branch family, and then a second or third son succeeds. Often, however, it is the younger sons who establish branch families. When a branch family is established, notice is given; the principal seal is then made, and an impression placed with the headman.

In Suwo *kuni*, Yoshihiki *kori*, the eldest son[4] succeeds as of course; but in case of his mental or physical incapacity to manage the family affairs, the second or the third son, or, if there is no son, a daughter, will take the succession, the father's seal attesting the appointment. In Nagato *kuni*, Amu *kori*, a daughter may succeed her father, the correction of names being made in the temple-register by means of an appended slip.

NANKAIDO. In Awaji *kuni*, Mihara *kori*, when there is no son, a daughter may inherit. Sometimes the widow takes the succession temporarily, either as widow of the deceased, or, perhaps, as his daughter.

In Awa *kuni*, Nabigashi *kori*, the eldest legitimate son[3] succeeds, in preference to an older illegitimate son; [5] and if the father desires to make an illegitimate son his

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1. *Danshi.* 2. *Shison.* 3. *Chakushi.* 4. *Chonan.* 5. *Shoshitsu no ko.*

heir, the relatives of the lawful wife have a right to interpose objection.

In Tosa *kuni*, Kochi *kori*, the eldest son[1] succeeds. It is customary, in rural districts[2] among families of the upper classes, where there are 3 sons, to establish the first and the second sons in branch families, making the youngest the heir.

SAIKAIDO. In Chikugo *kuni*, Mitsuma *kori*, the eldest legitimate son[3] customarily succeeds. But in case of his incapacity or any other hindrance the second or the third takes his place, or [in default of other sons] a daughter takes a husband [who succeeds as adopted son-in-law].

In Higo *kuni*, Tamana *kori*, among the common people, the eldest son customarily succeeds. But in case of his incapacity, mental or physical, the second or the third son, after consultation by the relatives and company, takes his place.

In Hyuga *kuni*, Usuki *kori*, the father often has the eldest son establish a branch family and gives the succession to the second or third son. In Miyazaki and Kayu *kori*, the headman and the elder, at any time after the eldest son reaches the age of 20, may enter his name in the temple-register as master of the family, treating the father as retired; and in any case, if a master in some way offends the whole village, the village officials have a right to cause him to retire.

3.—DISTRIBUTION OF PATRIMONY.[4]

When the master of a family desires to portion off a son or younger brother and thus establish a branch family, he gives notice to the local official, and goes through the

1. *Chonan.* 2. *Go* and *mura.* 3. *Chakushi.* 4. *Bun* (divide)-*yo* (give). The term "apportionment" will here be used as the general one, "advancement" being restricted to a distribution during the parent's lifetime.

form of apportioning[1] a part of his estate and creating a new family. The amount thus apportioned usually does not exceed one third or one fourth of his estate. Varying customs are as follows.

KINAI. In Yamashiro *kuni*, Atago and Kadono *kori*, at the starting of a new family by a son or younger brother, there is no fixed rule as to the amount to be apportioned. In villages the part apportioned is customarily the property acquired by purchase;[2] that part inherited from one's ancestors is given only to one who perpetuates the main family.

In Yamato *kuni*, Soyegami *kori*, a person who establishes a branch family is sometimes excused from the feudal service consisting in the furnishing of a stated amount of labor.

In Kawachi *kuni*, Shibukawa *kori*, when one wishes to establish a younger son as the master of a new family, removing his domicile to another village, the permission of the officers of this village is obtained and the matter is attended to by them. But the new-comer is called a "come-in farmer,"[3] and is in all respects treated as inferior to the other farmers. When the new family remains in the same village, the village officials are informed.

In Idzumi *kuni*, Otori *kori*, when a distribution is desired to be made to a daughter or younger son, the father makes out an instrument attested by witnesses and deposits it with the village officials; on the father's death, the relatives open it and read it aloud. A similar document is necessary for the appointment of the heir. In Idzumi *kori*, when a second or third son establishes a branch-family, he is sometimes exempted from village charges or feudal laboring services for 3 years. This period is called the "new-walls three-years."[4]

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1. *Wakatsu*. 2. *Bai-toku*. 3. *Iri-byakusho*. 4. *Ara-kabe sannen*, —its purpose being to allow him to devote his funds to erecting a house.

In Settsu *kuni*, Yabe *kori*, the establishment of a new family is reported to the local officials. The portion given is of no fixed amount, this being in the discretion of the master of the family. The same rule holds when a merchant apportions to some one of his clerks or agents who has well served him for many years a part of his capital and of the goodwill[1] of the house, for the purpose of enabling him to set up a separate house.

TOKAIDO. In Ise *kuni*, ANO *kori*, no report is made of the creation of a new family; but a note is made of the additional family[2] in the temple-register. A poor family sometimes petitions the feudal official for money to build a house and buy farming tools, and receives assistance[3]-money. There is no fixed rule as to the amount of an advancement.

In Shima *kuni*, Toshi *kori*, a report must be made to the feudal official, because an increase takes place in the number of houses. There is no regular amount for the advancement. In most cases the new family is established in the same calling as the main family. In sea-coast villages the portion often consists in a boat, with which the new family carries on the occupation of fishing.

In Owari *kuni*, Aichi *kori*, there is no fixed rule as to the amount of capital portioned out. When an eldest son starts a new family, his portion is sometimes contributed to by the younger son, who succeeds to the headship of the main family. Sometimes a merchant portions out to some one of his clerks or agents who has well served him for many years a part of his capital and of the goodwill of the

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1. *Noren.* This is a curtain separating the shop-room of a merchant's house from the living rooms. By custom it is regarded as representing the house or firm, and thus it has come to have the meaning "good-will." 2. *Kado* (gate,—hence, house)-*mashi* (increase). 3. *Te-ate*, lit. hand-placing, the attitude of one who lays his hand on another's shoulder and offers friendly help.

house, together with the right to use the house-name,[1] and lets him establish a separate house. In such a case, if the beneficiary should subsequently injure the interests of the original house in a commercial transaction, the head of the latter may deprive him of the right to the house name and goodwill and order him to cease trading.

In Totomi *kuni*, Fuchi *kori*, the fixed amount for an advancement of realty or personalty is three-tenths of the total value of the family estate; this amount is known as "seven and three parts."[2] If the amount exceeds this proportion, the relatives and the company may object. As the number of houses in each village is fixed, one cannot start a new family at pleasure, and usually one must wait until a piece of residence-land is vacated by its occupant. Even if an additional house is built, no report is made.

In Suruga *kuni*, Abe and Udo *kori*, a report must be made to the headman, and during the building of the new house one's company must contribute their assistance without pay.

In Kai *kuni*, Yamanashi *kori*, the gift of property to other than one's successor (for example, a younger child or friend) must be made by an instrument of bequest.[3]

In Idzu *kuni*, Takata *kori*, a part of the estate is sometimes apportioned to a son or brother to establish him at the head of a branch family, the amount given being in the discretion of the master; some do not give any of the cultivated land, but a portion of the residence-land is always given.

In Musashi *kuni*, Toyoshima *kori*, a will is usually made during the father's lifetime, giving a portion of the estate to a daughter or younger son. On his death, the will is opened and the portion set off. When the daughter marries or the son grows up [and starts a branch family],

1. *Yago*. Most commercial establishments have a title of their own, quite distinct from the name of the owner or owners, i.e., *Ise-ya*, *Owari-ya*. 2. *Shichi-bu sam-bu*. 3. *Yuijo*.

the portion is taken to the new house.[1] If there is no such distribution by will, there is no division of the estate, because a division would be the source of wrangling among the children.

In Iruma *kori*, an apportionment to a second or third son is by law not permitted, unless the family estate is assessed at 10 *koku*, or more. When a branch family is started, the feudal official makes a present by way of reward. In towns, the master portions out a part of the capital to the son or brother, who hires a separate house. No report is made.

In Awa *kuni*, Awa and Heguri *kori*, the farmers dislike to own descent from a new family, and so the brothers and younger sons do not start new families but take the succession of a family about to become extinct.[2] The amount apportioned depends on the discretion of the master.

In Kadzusa *kuni*, Moda *kori*, in towns, a report is made and the entry is changed in the land-register. But in villages the practice is to take the succession of other families, as just related. The amount of the apportionment is not fixed.

In Shimosa *kuni*, Imba *kori*, apportionment is by law not permitted if the family estate is assessed at less than 10 *koku*. The amount is in the discretion of the master. But as permission to turn cultivated land into residence-land is difficult to obtain, the custom is to re-establish extinct families, as above related.

In Hitachi *kuni*, Ibaraki *kori*, permission of the feudal official must be obtained, because in making the advancement a portion of cultivated land is turned into residence-land. Whenever an additional house is established, the feudal official gives a present by way of reward. The amount apportioned is in the master's discretion.

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1. *Igon*. This expression is used apparently because the portion would consist chiefly of personalty. 2. *Zekke*, i.e. having no male issue.

TOSANDO. In Omi *kuni*, Shiga *kori*, the amount apportioned is in the master's discretion. Where it consists of realty, a deed of grant must be given. In villages, an apportionment is not allowed where the family estate is assessed at not more than 10 *koku*.

In Hida *kuni*, Ono *kori*, permission of the feudal official must be procured. The portion is customarily not less than 10 *koku* in assessed production and 1 *cho* in area, and the main estate remaining must not be less in quantity. If the head of the new family does receive a plot of less than 10 *koku* production, he loses the title of "farmer" and the family is called "nobody's family;"[1] moreover, his rights among his fellow-villagers suffer considerable diminution.

In Shinano *kuni*, Sarashina *kori*, when a will is made, and its provisions are ambiguous or the distribution is unjust, the relatives and company have a right to disregard it and make a proper distribution. In Takai *kori*, headmen whose property is of less than 20 *koku* assessment and ordinary farmer's whose property is less than 10 *koku* are forbidden by law to set off part of their property to second or third sons.

In Kotsuke *kuni*, Ibaraki *kori*, an apportionment is forbidden unless the family estate has an assessed production of 15 *koku* or more. The amount of the portion is determined by a consultation of the relatives. The entry of the fact is made at the time of the next revision of the temple-register.

In Shimotsuke *kuni*, Tsuruga *kori*, the practice of advancements for the establishment of branch families is rare; in most cases the second and third sons take the succession of a "broken" family.[2] In Kawachi *kori*, if the family estate is assessed at 10 *koku* or less, an apportionment cannot be made without permission of the feudal official. The amount is in the discretion of the master. A report must be made at the local office.

1. *Tare* (whose?, i.e. nobody's)-*kado* (gate, house)-*ya* (house, family). 2. *Tsubure-ya*.

In Iwashiro *kuni*, Shinobu *kori*, the permission of the feudal official is required. The amount is determined by a consultation of the relatives, but usually does not exceed one-third of the whole estate. In Aidzu *kori*, the permission of the local officials alone is enough. In villages, second and third sons usually succeed to the name and remaining property[1] of a "broken" farmer. When an advancement is made, the amount is in the discretion of the master.

In Rikuzen *kuni*, Toda *kori*, when property is to be apportioned to a second or third son, the procedure is the same as in the case of "private-extinction [of a family]," described in the chapter on Domicile.[2] There is no rule as to the proper portion, and if the heir objects to its amount, the father may not carry out his desire.

In Mutsu *kuni*, Tsugaru *kori*, the establishment of a branch family is not permitted unless the master has reached the age of 40 and the family estate performs a laboring service of 40 days' labor annually. The amount is in the discretion of the master.

In Uzen *kuni*, Tagawa *kori*, the amount is not fixed, but does not usually exceed one-third of the estate. A report is made to the chief headman and the entry in the land-register is changed, the ward or village officers certifying with their seals the transfer of the property. A farmer does not portion off a plot of less than 5 *koku* assessment. In Okitama *kori*, when a daughter or younger son is to be established in a branch-family, a consultation of the relatives and company is held, and an amount set off proportionate to the size of the family estate. Notice of this is given to the company-chief and the bailiff[3] at the time of revising the temple-register, on the 10th day of the 2d month. No document or witnesses are needed.

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1. *Myo* (name)-*seki* (residue). 2. See Part VII. See also *supra*, Chapter I, Rikuzen *kuni*, where a reference is made to the same procedure. 3. *Kendan*.

In Ugo *kuni*, Akita *kori*, no one may establish a daughter or younger son in a branch family unless he is the owner of some realty, however little. The portion assigned is usually two-tenths of the whole estate. In Hiraga *kori*, the portion given as an advancement[1] may not exceed one-tenth of the whole,—for example, 10 *koku* from an estate of 100 *koku*. The relatives and company must approve, and verbal notice is given to the headman.[2] The name is changed in the temple-register at the time of the annual revision. Sometimes it happens that a portion of the estate is set off to a farm-laborer[3] who has worked for the family for a long time, rendering good service, and he sets up a separate family. The nucleus of his estate is the savings which he has made, and what the master gives him is an additional amount termed "house-building expenses"[4] and the privilege of using the master's name. If land is given instead of money, the amount is usually an area assessed at 100 *kari* (2 sheaves make 1 *wa*, 10 *wa* make 1 *soku*[5] or 1 *kari*, and 100 *kari* are usually equivalent to 1 *tan* in area). The establishment of this sort of separate family is known as "kitchen-apportionment,"[6] and a verbal notice to the headman is sufficient.

HOKKAIDO. In Oshima *kuni*, Kamedo *kori*, report is made by the master, and the local officials make the requisite changes at the next revision of the temple-register. The amount apportioned is in the discretion of the master.

HOKUROKUDO. In Echizen *kuni*, Asuha *kori*, the master may establish branch families or not, as he pleases. There is no fixed amount for the advancement, but it seldom exceeds one or two tenths of the estate. But if the eldest son is for some reason the one to leave the main family, his portion is sometimes one-half. A merchant sometimes

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1. *Bun* (divided, part)-*chi*. 2. *Kimoiri*. 3. *Saku-otoko*. 4. *Kasaku-ryo*. 5. These are some of the old Japanese measures, which seem to have survived in this region. 6. *Daidoko-wari*.

portions off the good-will of his business, as already described, but the relations of master and servant are in form preserved until the third generation of the new house.

In Kaga *kuni*, Ishikawa *kori*, a law of the fief forbids an advancement when the family estate is assessed at less 50 *koku*. When the owner of such an estate desires to make an advancement, he conceals the transaction under the name of a sale. However there is a general prohibition against sales and apportionments to temples, *samurai*, and merchants.

In Noto *kuni*, Hoshi *kori*, when a son or brother or other member of the family wishes to establish a new household, the master of the family informs the villagers, and consent being obtained, applies for permission to the feudal official by petition countersigned by the village officials. The new householder pays from 3 to 5 *yen* to the village as "face-money,"[1] which is laid by against extraordinary casualties or is applied to the village expenses. In Hagui *kori*, a portion may not be given to a younger son unless the estate is of 50 *koku* assessment or more.

In Echigo *kuni*, Koshi *kori*, in villages, no estate of less than 30 *koku* assessment can be subdivided; and so, although the master of a smaller estate sometimes, fo special reasons, establishes a second or third son at the head of a branch family, the headman, though not openly objecting, does not record the new house on the books. In towns, the master of a family usually apportions a part of his capital, seldom a part of the residence land. The amount is not fixed, but it rarely exceeds one-tenth of the whole. In Kariha *kori*, the s mallest estate allowed to b divided is one assessed at 10 *koku;* but as the local officials never report to the feudal official an increase in the number of

1. *Tsura-kane.* Prosperity or elevation of position is described by a common phrase, "His face has become better;" and the term "face-money" probably involves the same idea.

houses, the law is often violated. The amount of the apportionment is not fixed. In Kambara *kori*, the portion for a daughter or a younger son must not exceed one-fifth of the whole estate. If it consists of land, a petition asking permission to transfer must be sent to the ward representative, with the title-deed; the deed is copied at the ward assembly office, officially sealed, and forwarded to the elder and headman, who indorse it and deliver it to the head of the new family. This ward-assembly office manages the affairs of the ward, and the ward-representative, elder, and headman are to be found there.

In Sado *kuni*, Sawata *kori*, a law prohibits any change in the number of houses, so that the creation of branch families is not allowable, and it is customary for a younger son to wait for the removal of some family and take its place. The amount of the advancement, after a consultation by the relatives, is usually referred to the local officials for final determination.

SANINDO. In Tamba *kuni*, Taki *kori*, estates assessed at less than 10 *koku* may not be subdivided; in all cases permission of the feudal official is required. The house of the new family may be covered with straw-thatch only, not with reed-thatch or with tiles.

In Tango *kuni*, Kasa *kori*, a report must be made. In some villages an increase of the number of houses is not considered desirable, so that even though a branch-family be established, the name is recorded with that of the main family, until an opportunity arises to succeed to the name and remaining property of some extinct family. In towns, apportionments by merchants are rare, and most of the new families build up their business by their own efforts.

In Hoki *kuni*, Aimi *kori*, no report of the new family is necessary, and for the advancement the consent of the local officials only is enough. In towns and villages alike the new family is for 3 years exempt from the various burdens and charges.

In Idzumo *kuni*, Naka *kori*, the apportionment of property to younger children by last will must be attested by the nearest relations.

In Iwami *kuni*, Shima *kori*, when a second or a third son is established in a branch family and when a daughter or a son marries into another family, a portion of the estate is given them. In case of distribution made by will, the will must be opened in the presence of the relatives, the company and the beneficiary. If the latter alone opens it, the will is of no effect.

SANYODO. In Harima *kuni*, Shikito *kori*, in villages, a report of the apportionment is made to the local officials, and the entry is changed in the land-register. In towns, the permission of the feudal official is necessary. The amount is not fixed.

In Bigo *kuni*, Fukatsu *kori*, the establishment of a new family is reported to the local officials; if also a grant of part of the estate is made, the entry in the land-register is changed. The amount varies; but in no case must it be unsatisfactory to the heir-apparent, and it is generally about three-tenths of the whole. In Mitsuki *kori*, in towns, a report that a new family is established is given to the feudal official, together with a certificate from the temple which the master attends. In villages, there is merely a report to the local officials of the apportionment of property. The amount is in the discretion of the master.

In Aki *kuni*, Aki and Numata *kori*, in towns, a report of the new family is made to the local officials. The amount of capital portioned out is in the discretion of the master; but the saying "six to four" shows that the new family receives less than the successor to the main family. But where a son from a village family has been adopted into a town family, he must always succeed to the headship of the main family. A merchant sometimes gives to a faithful employee the right to use the house-name, as

already described, and a branch house so formed ranks second only to a branch-family established by a son or brother.

In Nagato *kuni*, Amu *kori*, a portion consisting of cultivated or forest land is given to the daughter or younger son who is to establish a branch family or to marry into another family. This is called "share-rice,"[1] and the amount is decided upon at the time the child is born. But sometimes the division takes place by will. The will is not valid unless it is opened by the relatives and company and read aloud in the hearing of all present.

NANKAIDO. In Kii *kuni*, Nakusa and Abe *kori*, in towns, an apportionment does not exceed one-third of the whole estate, and may not be made to any relative farther removed than a cousin; though, as already described, it may be made to a faithful employee, and in this case it is called "education grant."[2] In villages an advancement is made even to a brother or son, by the transaction called "return of the original amount,"[3] described in the chapter on Hypothec and Pledge. The amount is varying.

In Awa *kuni*, Miyoshi *kori*, as a rule, one who has but a small estate is not allowed to establish a son in a branch family, but if some necessity arises, the relatives and village officers investigate the matter, inspecting the land which it is desired to set off for the residence, and if no objection is made, the apportionment takes place.[4]

In Sanuki *kuni*, Naka *kori*, in towns, the amount of capital apportioned is in the discretion of the master. But when he apprehends disputes after his death, he seals up an instrument of bequest, and deposits it with the chief elder, who after his death opens it and announces the will of the deceased. In villages, a law prohibits any lessening of the

1. *Wake-mai*. 2. *Shitsuke-yuzuri*. 3. *Honsen-kayeshi*. See Part II, Chap. VI. 4. The hesitation to allow this would be due to the diminution of tax-producing rice-land caused by turning rice-land into residence-land.

cultivated area; so that a new house, if built on foundation stones and not merely by placing the timbers in holes,[1] cannot be erected without permission of the feudal official.

In Iyo *kuni*, Uwa *kori*, in towns, the amount of the portion is in the discretion of the master. The permission of the feudal official must be obtained. But in villages the consent of the local officials is enough. In Onsen *kori*, the permission of the feudal official is in all cases necessary. The amount is in the discretion of the master. In towns an increase in the number of families is considered undesirable; but in villages the opposite is the case, and the feudal official sometimes gives "house-money" to build the new house.

SAIKAIDO. In Chikuzen *kuni*, Sagara and Naka *kori*, there is a saying "seven to three," but the share apportioned seldom exceeds one-third of the whole. The additional family is registered at the revision of the temple-register.

In Chikugo *kuni*, Mitsuma *kori*, no distribution is made to daughters or younger sons except by will.

In Buzen *kuni*, Kiku *kori*, a report of the new family must be made to the local officials. Great honor is attached to having many branch-families. The amount of the portion is determined by the master, but seldom exceeds one-third of the estate. In towns a merchant often portions off a faithful employee, as already described, in the manner of a branch family; but the relation of master and servant is in form preserved. In villages also a master sometimes portions off a part of his estate to a domestic servant,[2] who makes a separate house, and is then called "name-child farmer."[3] He is bound to visit his patron's house on certain days for ever and to perform manual labor for him. The "original farmers"[4] do not treat him as an equal, and in fact regard

1. Because the latter structure would be of a temporary character, not enduring. 2. *Meshi* (order)-*tsukai* (employ). 3. *Na-ko-hyakusho*. Compare Chapter I, Osumi *kuni*. 4. *Hon* (true, original, principal)-*hyakusho*.

him as only next above the outcasts.[1] In Shimoge *kori*, in villages, the law forbids an advancement if the estate is of 10 *koku* assessment or less, but the local officials, in case of a violation, tacitly permit it, and the master of the new family reports at the next revision of the temple-register. In towns a branch family is established as a branch-business-house.[2] But for fear of the imposition of feudal charges no report is made until the new business is going successfully. In Usa *kori*, a branch family is said to be "within the stock,"[3] for, no matter how many are established, none are registered as having separate domiciles. A law forbids the apportionment of an estate less than 1½ *cho* in area; but the law is not needed, for no one would think of dividing a a smaller estate.

In Hizen *kuni*, Sonoki *kori*, no reports of the new family is made until the next revision of the temple-register; but the local officials are informed of the advancement at the time it is made. In villages it often happens that the older sons are established at the head of branch-families, while the youngest son[4] succeeds to the headship of the main family. In Takaku *kori*, the amount of the portion is in the discretion of the master. In villages it often happens, as above related, that the youngest son succeeds to the headship and the older sons start branch families. In Amakusa *kori*, an advancement is not permitted if the estate is of less than 10 *koku* assessment, but as in many cases the local officials on their own responsibility acquiesce in the breach of this rule, the practice is very confused.

In Hyuga *kuni*, Miyazaki and Kayu *kori*, no report is made, but every 2 or 3 years the local officials make an inspection and register the new masters in the temple-register. The amount of the advancement is determined by consultation of the master and the relatives.

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1. *Yeta*. 2. *De-mise*. 3. *Kabu* (family-stock, guild-share, etc.)-*uchi*. 4. *Batsu* (after, last)-*nan* (male, son).

In Osumi *kuni*, So *kori*, the permission of the feudal official is necessary before establishing a new family, and its master has an entry made entered in the temple-register. The amount of the advancement varies, but seldom exceeds one-third of the estate.

In Iki *kuni*, Shida *kori*, the portion consists of household utensils and a piece of residence-land, all cultivated land being reserved for the eldest son on succeeding to the headship of the main family. The master of the new family obtains from the village a share of the publicly-distributed land.[1]

In Tsushima *kuni*, Shimoagata *kori*, permission of the feudal official is required in creating a new family. The amount of the advancement varies.

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1. *Kobun no tahata*. See Chapter I, Iki *kuni*.

APPENDIX.

ALIENATION OF LAND IN RIKUZEN KUNI.[1]

Concerning Alienation.[2] In the feudal days the sale of land in this fief was not allowed. The object of this prohibition was the protection of the poor and the prevention of great accumulation of landed property by the rich. For the same reason the transfer of land by way of mortgage or of gift was prohibited, unless valid reasons existed. Severe as was the restriction, it was justified by the abuses which prevailed. The rich were constantly getting the land of the poor by way of security, though the transaction was veiled under some other name, and by means of these evasions of the law the poor became still poorer and it was impossible to relieve their distress. The following are some of the enactments passed. "No one may own more than 5 *kwammon's* worth of land, unless he can prove that he owned it before the passage of the law against alienation." (II. Gembun; 1737.) "Alienation of land is prohibited, except in the following cases, after investigation: (1) Where a man wishes to establish his younger brother as a farmer; (2) where a man has received a great deal of *sanden*[3] and is unable to cultivate it all himself; (3) Where a man's laborers have left him and he is unable to cultivate his land; in such a

1. This is extracted from the "History of Taxation in Sendai Fief," referred to in Part II, Appendix. 2. *Taka-wake, taka-bun.* 3. See Part II, Appendix.

case the feudal official will examine into the reasons for their leaving, and if it proves to have been by his own will and not through the inducements of others, the alienation will not be permitted; (4) where a man wishes to divide his residence-land into 2 or 4 parts and assign one or more to some relative who is to live there. Except for extraordinary reasons, no one may alienate his land other than as above." (XII, Kwansei, 1; Feb., 1600). "The regulations in regard to the alienation of land have recently been administered with much laxity, and hereafter they are to be strictly observed, the district-magistrate and the deputies and other officers examining the reasons carefully before permission is granted. Those who are entitled to alienate may alienate individual plots, but not an area measured by so and so many feet." (III Bunkwa 10; Nov., 1806). "When a mortgagor is unable to redeem, he may alienate his land to the creditor, retaining the portion not needed to satisfy the debt. But this will be permitted for the next two years only; and after that only in case of extraordinary need, to be determined by investigation." (III Bunkwa; 1809). "The regulations as to alienation have resulted in much land lying waste, since the poor are unable to cultivate them, owing to their lack of resources, and cannot sell them. The deputies, district-magistrate, inspectors, and headmen are to make an examination of these lands, and if it is really impossible for the owner to cultivate them, he may be allowed to sell or mortgage them. But great caution must be exercised in giving such permission, for it is easy to be deceived in such matters, and if such deceit comes to be practiced with impunity, transfers will increase, and finally the rich will become the owners of all the lands. Moreover, under no condition is an alienation by measurement to be permitted." (VI Bunkwa; 1809). "There has been and still is much land transferred by way of mortgage and private gift. The reason is to be found in the poor condition of the people, and especially in the famines of 5

and 2 years ago, when the droughts deprived people of their subsistence, and they were obliged to choose between violating the law and dying of hunger. They naturally chose the former, and raised money by mortgaging or selling their property; so that being completely in the power of the rich, the latter made very severe terms, and will reap great profits if we now give our consent to the alienations thus made. The officials are therefore to investigate into the condition of the land under their jurisdiction, and, as it is desirable to avoid permitting the alienation if possible, to see that the debtors contrive in some way to redeem their land, and where there are a number of claims against the same land, to rewrite the various debts so that the debtor will be able to pay Unless we take some such measures, land-proprietorship will be in the greatest confusion, and it will be difficult to impose and collect the labor-services in the proper manner. At the present time the poor are the nominal owners[1] and the rich the real owners,[2] and thus, as the taxes are assessed on the nominal owners, the rich escape the burden, and as the poor are unable to bear it, there is much delay and default in payment, and the feudal officials are embarrassed. For 5 years from now alienation will be permitted as above." (IX Tempo, 3; April, 1838).

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1. *Takamochi* 2. *Jinushi.*

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